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**RESTATED ACQUISITION, DEVELOPMENT AND LOAN
AGREEMENT**

(East 11th and 12th Streets Revitalization Project)

by and among

**CITY OF AUSTIN
(City),**

**URBAN RENEWAL AGENCY OF THE CITY OF AUSTIN
(Agency)**

and

**AUSTIN REVITALIZATION AUTHORITY
(Corporation)**

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RESTATED ACQUISITION, DEVELOPMENT AND LOAN AGREEMENT

(East 11th and 12th Streets Revitalization Project)

Introduction

This Restated Acquisition, Development and Loan Agreement (this "Agreement") is entered into on or about 1 September 2006 but effective **1 October 2004**, extended by the parties on or about **30 September 2007** and further amended by this restatement on or about **13 November 2007**, by and among the **CITY OF AUSTIN**, a Texas home rule city and municipal corporation under Chapter 9, Texas Local Government Code (the "City"), the **URBAN RENEWAL AGENCY OF THE CITY OF AUSTIN**, a Texas urban renewal agency under Chapter 374, Texas Local Government Code (the "Agency") and the **AUSTIN REVITALIZATION AUTHORITY**, a Texas non-profit corporation created and operating under Title 32, Chapter 9, Vernon's Texas Civil Statutes, Articles 1396-1 01 *et seq* (the "Corporation")

Recitals

WHEREAS, in connection with the acquisition and development of certain land in the East 11th and 12th Streets Redevelopment Area (as hereinafter defined), the City submitted an application to, and on 28 September 1995 received conditional approval from, the United States Department of Housing and Urban Development (the "HUD") for a loan guarantee under Section 108 of the Housing and Community Development Act of 1974, as amended, and

WHEREAS, on 16 November 1995 the City Council of the City adopted a resolution authorizing the Corporation to assist the City as a HUD Subrecipient (as hereinafter defined) in developing a proposed urban renewal plan for the Redevelopment Area, and

WHEREAS, on 14 December 1995 the City Council conducted a public hearing in accordance with Section 373 006(4), Texas Local Government Code and on 29 February 1996 adopted Resolution No 960229-49 approving a community development program in accordance with Chapter 373, Texas Local Government Code, as amended, that included the acquisition of land and development of Retail/Office/Mixed Use Improvements and other Improvements in the East 11th and 12th Streets Redevelopment Area, and

WHEREAS, on 29 February 1996 the City Council of the City adopted Resolution No 960229-50 approving the HUD Funding Approval/Agreement and authorized the City Manager to negotiate the terms of the HUD Documents (as hereinafter defined), and

WHEREAS, on 16 October 1997 the City Council of the City conducted a public hearing in accordance with Section 374 014(1), Texas Local Government Code, and

WHEREAS, on 19 November 1997 the City Council of the City adopted Resolution No. 971119-34 declaring the Redevelopment Area to be a slum and blighted area and designating the Redevelopment Area appropriate for an urban renewal project as required by Section 374.014(a) of the Texas Local Government Code and as those terms are defined in Sections 374.003(3) and (19) of the Texas Local Government Code, and

WHEREAS, on 3 December 1998 the City Council of the City in accordance with Section 374.014(c), Texas Local Government Code, conducted a public hearing on the proposed urban renewal plan and on 14 January 1999 the City Council of the City adopted Ordinance No. 990114-10 in accordance with Section 374.014(a), Texas Local Government Code, approving the Urban Renewal Plan, effective 25 January 1999 (as hereinafter defined), and

WHEREAS, on 16 December 1999 the City Council of the City adopted Ordinance No. 991216-77 (the "Ordinance") authorizing the execution and delivery of certain notes and contracts including without limitation the HUD Loan, the Contract, the Notes, the Series 1999-B Fiscal Agency Agreement, the Supplemental Fiscal Agency Agreement and any other documents executed and delivered in connection with any of the foregoing capitalized terms as such terms are defined in the Ordinance (the "HUD Documents") relating to the \$9,035,000 HUD Section 108 guaranteed loan to finance the acquisition of land by the Agency, the Corporation and, where possible, private developers, and to finance development of one or more Retail/Office/Mixed Use Improvements by the Corporation and, where possible, Retail/Office/Mixed Use Improvements or Improvements by private developers, and

WHEREAS, the HUD Documents contemplated that the City will advance or loan, as applicable, HUD Guaranteed Loan Proceeds (as hereinafter defined) to the Agency, the Corporation or a private developer for the purpose of acquiring land and constructing and improving the Retail/Office Improvements and other Improvements in the Redevelopment Area, and

WHEREAS, the HUD Documents contemplate that the City, as a condition to receiving the HUD loan guarantee, will cause (i) the Agency to secure its obligations under this Agreement by establishing, through a properly recorded Deed of Trust, a Lien in favor of the City on all Contributed Property and all other land in the Redevelopment Area acquired by the Agency pursuant to this Agreement and (ii) the Corporation and any private developer acquiring land in the Redevelopment Area pursuant to a loan from the City of HUD Guaranteed Loan Proceeds to execute and deliver a City Note in the amount of such loan and to secure their obligations under such City Note by establishing, through a properly recorded Deed of Trust, a Lien in favor of the City on the land (and the improvements thereon) acquired with the proceeds of such loan, and

WHEREAS, the City, the Agency and the Corporation entered into an Acquisition, Development and Loan Agreement, effective 12 October 1999, that extended through 1 October 2004 to evidence arrangements for the acquisition and development of the Redevelopment Area and to satisfy the requirements of the HUD Documents (the "Original Agreement"), and

WHEREAS, under the Original Agreement the City pursuant to Section 374 906(a)(1), Texas Local Government Code, dedicated and conveyed to the Agency, without consideration, all of its interest in the Contributed Property for use in implementing the Urban Renewal Project, including development by the Corporation of certain Retail/Office/Mixed Use Improvements, and

WHEREAS, the City, the Agency and the Corporation desire to enter into this Agreement to evidence additional arrangements for the acquisition and development of the Redevelopment Area and to satisfy the requirements of the HUD Documents, and

WHEREAS, the City, the Agency and the Corporation are authorized to enter into this Agreement pursuant to the provisions of Chapter 373, Texas Local Government Code, Chapter 374, Texas Local Government Code, and Title 32, Chapter 9, Articles 1396-1 01 *et seq* , Vernon's Texas Civil Statutes, and

WHEREAS, on 10 August 2006, the City Council of the City adopted Motion No 20060810-015 authorizing the execution of this Agreement by and among the City, the Agency and the Corporation, and

WHEREAS, on 27 September 2007, the City Council of the City adopted Motion No 20070927-022 authorizing the first amendment and extension of this Agreement by and among the City, the Agency and the Corporation to not later than 15 November 2007, and

WHEREAS, on 8 November 2007, the City Council of the City adopted Motion No 20071108-024 authorizing the second amendment and extension of this Agreement by and among the City, the Agency and the Corporation, and

WHEREAS, on 24 July 2006, the Board of Commissioners of the Agency adopted Resolution No 2006-0724-01 authorizing the execution of this Agreement by and among the City, the Agency and the Corporation, and

WHEREAS, on 17 September 2007, the Board of Commissioners of the Agency adopted Resolution No 2007-0917-04 authorizing the first amendment and extension of this Agreement through 14 November 2007 by and among the City, the Agency and the Corporation if so approved by the City Council before 30 September 2007, and

WHEREAS, on 5 November 2007, the Board of Commissioners of the Agency adopted Resolution No 2007-1105-01 authorizing the second amendment and extension of this Agreement by and among the City, the Agency and the Corporation, and

WHEREAS, on 22 May 2006, the Board of Directors of the Corporation adopted a resolution authorizing the execution of this Agreement by and among the City, the Agency and the Corporation, and

WHEREAS, on 18 September 2007, the Board of Directors of the Corporation adopted a resolution authorizing the first amendment and extension of this Agreement by and among the City, the Agency and the Corporation through 14 November 2007, and

WHEREAS, on 7 November 2007, the Board of Directors of the Corporation adopted a resolution authorizing the second amendment and extension of this Agreement by and among the City, the Agency and the Corporation,

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which are acknowledged and confessed, the City, the Agency and the Corporation agree as follows

ARTICLE 1 DEFINITIONS

Section 1.1 Definitions As used in this Agreement, the following terms have the following meanings

(a) "**Administrative Contract**" Shall have the meaning assigned to it in Section 4 4(b)(3)

(b) "**Advance**" A Loan Advance or an advance under a separate agreement

(c) "**Advance or Loan Billing Package**" The documentation required to be submitted by the Agency, the Corporation or a private developer to the City in order to receive an Advance

(d) "**Agency**" The Urban Renewal Agency of the City of Austin, a Texas public urban renewal agency created and operating under Chapter 374, Texas Local Government Code and designated by the City as a HUD Subrecipient

(e) "**Agency Representative**" The designated representative authorized by the Agency for purposes of this Agreement

(f) "**Agreement**" This Restated Acquisition, Development and Loan Agreement, as the same may be amended from time to time

(g) "**Allowable Costs**" Shall have the meaning assigned to it in Section 9 6

(h) "**Approved Capital Budget**" The budget, acceptable to the City in writing, setting forth the expenses associated with the Property Acquisition and Retail/Office/Mixed Use Improvements in the form attached hereto as **Exhibit "A"**, as the same may be amended from time to time with the City Representative's prior written consent

(i) **Architect** The architect selected by the Corporation or private developer to design and monitor the construction of a Retail/Office/Mixed Use Improvement or Improvements, respectively

(j) **Available Amount** The difference between \$818,100 (\$900,000 for the period ending 30 September 2007) and the aggregate amount of all prior Advances at the time of determination is available through 31 December 2008

(k) **Block 18 Tract** The property referred to in the Corporation's Phase One Project Acquisition and Disposition Plan approved by the Agency on 15 May 2000 by URA Resolution No 2000-0515-04

(l) **Budgeted/Actual Variance Report** The form of report the Agency and the Corporation are required to submit to the City as required by Section 8 2(c)

(m) **CDBG Funds** A transfer of Community Development Block Grant funds to the Agency under this Agreement or another agreement

(n) **City** City of Austin, Texas

(o) **City Note** The note or notes executed and delivered to, and made payable to, the City from the Corporation, a private developer or any other maker in connection with a Redevelopment Area Loan

(p) **City Representative** The City's Community Development Officer or the Community Development Officer's designated representative authorized in writing for purposes of this Agreement

(q) **Competitive Bidding** The solicitation of bids, requests for qualifications, or requests for proposals in conformance with and in the same manner that the City is required by its policies or laws to obtain goods or services, or construct any improvements

(r) **Competitive Process** The Developer Selection and Criteria Matrix approved by the Agency by Resolution No 2004-0224-01 on 24 February 2004 that establishes a competitive procedure for the Corporation to select developers prior to submitting a Phase I Application under the Property Acquisition/Disposition Plan to re-develop any Property that the Agency transfers to the Corporation under this Agreement

(s) **Completion** With respect to any Property Acquisition, when all of the following have been received by the City (i) a HUD-1 Settlement Statement from the Title Company, (ii) Title Insurance on the Property, and (iii) a warranty or special warranty deed with its recording notation stamped thereon granting to the Agency, the Corporation or a private developer certain Property in the Redevelopment Area With respect to any Improvements, or a Retail/Office/Mixed Use Improvement, when all of the following have been received by the City (w) a Certificate of Occupancy (or its equivalent) from the appropriate Governmental Authority, (x) a Certificate of Substantial Completion from the Architect, (y) a full release of

liens in recordable form from all contractors or subcontractors who have performed work on, or furnished materials for, the Improvements or a Retail/Office/Mixed Use Improvement (as applicable), and (z) an as built survey prepared by a surveyor acceptable to the City

(t) **"Completion Date"** The later of (a) the date of Completion of the Property Acquisition, or (b) the date that the Improvements, or a Retail/Office/Mixed Use Improvement, is constructed to Completion

(u) **"Contributed Property"** The real estate or interest therein described in Exhibit "C", all fixtures and improvements situated thereon and all rights, titles and interests appurtenant thereto

(v) **"Corporation"** Austin Revitalization Authority, a Texas nonprofit corporation created and operating under Title 32, Chapter 9, Vernon's Civil Statutes, Article 1396-1 01 *et seq* and designated by the City as a HUD Subrecipient

(w) **"Deed of Trust"** Any deed of trust (with security agreement and assignment of rents and revenues) executed by the Agency, the Corporation, or a private developer, as appropriate, conveying Mortgaged Property to a trustee for the benefit of the City, with a subsequent assignment to the Secretary, if requested by the Secretary, in substantially the form attached to the Redevelopment Area Loan Guidelines or as otherwise approved in writing by the City

(x) **"Default"** An event which with the passage of time, giving of notice, or both would constitute an Event of Default

(y) **"Development and Revenue Account"** Shall have the meanings assigned to it in Section 8 1

(z) **"Development Contracts"** All contracts and agreements, written or oral, between the City, the Agency or the Corporation and any land owner or contractor, between any of the foregoing and any contractor or subcontractor and between any of the foregoing and any other Person relating in any way to the acquisition of any Property or development of the improvements of any Property in the Redevelopment Area, including the performing of labor or the furnishing of standard or specially fabricated materials in connection therewith

(aa) **"Disbursement Request Form"** A certificate of the Agency, the Corporation or a private developer, as appropriate, on the appropriate disbursement request form as the City may hereafter request or as required by the Financing Documents, certifying in detail acceptable to the City (i) the expenditures made or expenses incurred by the Agency, the Corporation or a private developer, with such supporting data as the City may require, and (ii) that the amount requested represents sums actually spent in accordance with the Approved Capital Budget

(bb) **"Event of Default"** Any event described in ARTICLE 10

(cc) **"Facility Manager"** The person or persons, acceptable to the City and

secured by means of Competitive Bidding, that the Corporation or their assigns enters into a Facility Management Agreement to manage the day to day operations of all or part of a Retail/Office/Mixed Use Improvement

(dd) "Facility Management Agreement" The agreement or agreements between the Corporation and one or more Facility Manager(s) authorizing the Facility Manager to manage the day to day operation of a Retail/Office/Mixed Use Improvement, which agreement or agreements shall be approved in writing by the City

(ee) "Facility Management Plan" The plan prepared by the Corporation, and approved in writing by the City, which describes the duties and responsibilities of the Corporation in managing the day to day operation of all or part of a Retail/Office/Mixed Use Improvement or the Mortgaged Property owned by the Agency

(ff) "Federal Requirements" (i) Title I of the Housing and Community Development Act of 1974, as amended, and the applicable regulations for the program at 24 CFR, Part 570, including without limitation, compliance with all federal laws and regulations described in 24 CFR, Part 570, Subparts A, C, J, K, M, N and O, (ii) with respect to Property Acquisition the procedures and requirements of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U S C 4601-4655), including without limitation, compliance with all federal laws and regulations described in 49 CFR, Part 24, (iii) with respect to construction of Improvements or a Retail/Office/Mixed Use Improvement, (A) Section 3 of the Housing and Urban Development Act of 1968, as amended, and the applicable regulations for the program at 24 CFR, Part 135, and (B) prevailing minimum wages in accordance with the Davis-Bacon Act, as amended, and the applicable regulations for the program at 24 CFR §570 603, and (iv) the HUD Documents It is expressly understood that any changes in applicable federal laws or authorities are automatically incorporated herein without specific reference

(gg) "Financing Documents" This Agreement, all Deeds of Trust, all Redevelopment Area Loan Documents and all other documents now or hereafter executed by the Agency, the Corporation, a private developer or any other Person to evidence, secure or guaranty the performance and discharge of their respective Obligations

(hh) "Governmental Authority" Any court, board, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence that has jurisdiction over the Property, Improvements, or Retail/Office/Mixed Use Improvements

(ii) "Grant Agreement" Shall have the meaning assigned to it in Section 4 4(b)(3)

(jj) "HUD" The United States Department of Housing and Urban Development

(kk) "HUD Documents" Shall have the meaning assigned to it in the recitals to this Agreement

(ll) ~~–~~ **"HUD Guaranteed Loan Proceeds"** Amounts received by the City pursuant to the loan guaranteed by HUD under the HUD Documents

(mm) **"HUD Subrecipient"** Shall have the meaning assigned to it in 24 CFR §570 500

(nn) **"Improvements"** The improvements to Property acquired by a private developer, and funded with a Loan Advance A private developer may include the Corporation

(oo) **"Indemnified Party"** Shall mean the City, the Agency, and their officers, employees, elected officials, commissioners and/or agents

(pp) **"Insurance Requirements"** The insurance required to be carried and maintained by the Agency and the Corporation during the term of this Agreement which is set forth in **Exhibit "D"** of this Agreement, and by this reference incorporated in it

(qq) **"Leases"** All leases, subleases, licenses, concessions or other agreements (written or oral, now or hereafter in effect) which grant a possessory interest in and to, or the right to use, any part of the Mortgaged Property, together with all security and other deposits made in connection therewith, and all other agreements, such as engineer's contracts, utility contracts, maintenance agreements and service contracts, which in any way relate to the design, use, occupancy, operation, maintenance, enjoyment or ownership of the Mortgaged Property

(rr) **"Legal Requirements"** (1) All judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any Governmental Authority in any way applicable to the City, the Agency, the Corporation, the Property, the Mortgaged Property, or the Redevelopment Area, including, without limitation, the acquisition, ownership, use, occupancy, possession, operation, maintenance, alteration, repair or reconstruction thereof, (2) all covenants, conditions, and restrictions contained in any deed or other form of conveyance or in any other instrument of any nature that relate in any way or are applicable to the Property, the Mortgaged Property, or the Redevelopment Area or the acquisition, ownership, use or occupancy thereof, (3) the Agency or the Corporation's presently or subsequently effective bylaws (except where in conflict with this Agreement) and articles of incorporation or partnership, limited partnership, joint venture, trust or other form of business association agreement, (4) the Urban Renewal Plan, (5) the City Code, including any approvals by the City's Watershed Protection and Development Review Department, or successor department, of Plans and Retail/Office/Mixed Use Plans, (6) the Redevelopment Area Loan Guidelines, (7) all Leases, (8) the Insurance Requirements, (9) the Competitive Process, (10) any other contracts (written or oral) that relate in any way to the Property, the Mortgaged Property, or the Redevelopment Area and to which the Agency, the Corporation or a private developer may be bound, including, without limitation, any lease or other contract pursuant to which the Agency or the Corporation is granted a possessory interest in the Property, and (11) the Federal Requirements

(ss) **"Lien"** Any interest in Property securing an obligation owed to, or a claim by, a Person other than the owner of the Property, whether such interest is based on common law, statute or contract, including, without limitation, the lien or security interest arising

from a deed of trust, mortgage, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes

(tt) "Loan Advance" An advance of funds to the Corporation or a private developer under a Redevelopment Area Loan

(uu) "Loan Agreement" Shall have the meaning assigned to it in Section 4 4(b)(3)

(vv) "Mortgaged Property" All Improvements, Retail/Office/Mixed Use Improvements, and all other property of any kind which is conveyed by a Deed of Trust or in which a security interest is therein created pursuant to a Redevelopment Area Loan

(ww) "Obligations" All of the covenants, conditions, warranties, representations and other obligations made or undertaken by the Agency, the Corporation or a private developer, as the case may be, to the City or others as set forth in the related Financing Documents

(xx) "Operational Guidelines" The guidelines, approved in writing by the City, established by the Corporation that set forth the policies and procedures for operation of the Mortgaged Property on which Improvements or a Retail/Office/Mixed Use Improvement is made

(yy) "Original Agreement" The Acquisition, Development and Loan Agreement, entered into by and among the City, the Agency and the Corporation, dated effective 12 October 1999 and terminating on 1 October 2004, as the same was amended from time to time during its term

(zz) "Performance Report" The form of report the Corporation is required to be submitted as required by Section 8 2(c)

(aaa) "Permitted Encumbrances" The encumbrances to Mortgaged Property approved in writing by the City and described in the related Deed of Trust and filed for record in the real property records, Travis County, Texas

(bbb) "Person" Any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other form of entity

(ccc) "Plans" All written contracts and agreements between an Architect and a private developer together with the final site development and building permits, plans, specifications, shop drawings and other technical descriptions prepared for the construction of the Improvements, and all amendments and modifications thereof

(ddd) "Program Income" Shall have the meaning assigned to it in Section 8 5

(eee) "Project Acquisition and Disposition Plan" Each specific project

plan setting forth the detailed plan for Property Acquisition and Property disposition with respect to a particular portion of the Urban Renewal Project which is processed and approved in accordance with the Property Acquisition/Disposition Plan

(fff) "**Property**" Any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible in the Redevelopment Area

(ggg) "**Property Acquisition**" The process of acquiring Property on behalf of the Agency in accordance with the Property Acquisition/Disposition Plan, Legal Requirements and the Approved Capital Budget by the City for use in accordance with the Urban Renewal Plan, including the acquisition of Property by the Agency that is subsequently transferred to a private developer as provided in Section 6 1(b) or the Corporation as provided in Section 6 1(c)

(hhh) "**Property Acquisition/Disposition Plan**" The Property Acquisition/Disposition Plan setting forth the procedures for acquiring Property on behalf of the Agency by the City, attached hereto as **Exhibit "E"**, as the same may be amended from time to time with the prior written consent of the parties to this Agreement, and including each Project Acquisition and Disposition Plan

(iii) "**Property Management Agreement**" The agreement among the Agency and the Corporation, or such other entity if the Corporation is unable to perform the service, authorizing the Corporation or other entity to manage the Agency's Property using Competitive Bidding, with joinder by the City for the purpose of funding the agreement and conducting general management, oversight, monitoring and coordination with respect to the performance of the agreement by the Corporation or other entity

(jjj) "**Qualified Appraiser**" One or more persons, designated and selected by the City, that the City enters into agreement with to conduct an appraisal of each Property Acquisition that is acceptable under the HUD Documents

(kkk) "**Receipts**" Any receipt of funds in connection with Mortgaged Property

(lll) "**Redevelopment Agreement**" Each and every written agreement and any security documents in a form acceptable to the City and entered into between the Agency and the Corporation or a private developer relating to the transfer of any Property and the required development or re-development of improvements to the Property in the Redevelopment Area for a Retail/Office/Mixed Use Improvement or Improvements, as appropriate

(mmm) "**Redevelopment Area**" The real property and the adjoining public streets and alleyways generally identified on the map described in **Exhibit "F"**, and as more accurately described by the legal description set forth in the Urban Renewal Plan, as the same may be modified by the City Council in accordance with Section 374 014(e), Texas Local Government Code

(nnn) "**Redevelopment Area Loan**" A loan of HUD Guaranteed Loan Proceeds made by the City in accordance with the Redevelopment Area Loan Guidelines to the

Corporation or a private developer for the acquisition or improvement of Property and evidenced by Redevelopment Area Loan Documents

(ooo) "Redevelopment Area Loan Agreement" Each and every loan agreement entered into by the City and the Corporation or a private developer, pursuant to which the City loans HUD Guaranteed Loan Proceeds to the Corporation or a private developer for the acquisition of Property or the acquisition of a Retail/Office/Mixed Use Improvement or Improvements, as appropriate

(ppp) "Redevelopment Area Loan Documents" Each and every document the City requires the Corporation or a private developer to execute to evidence a Redevelopment Area Loan Unless otherwise required by the City Council, each Redevelopment Area Loan shall be evidenced by a Redevelopment Area Loan Agreement, a City Note, a Deed of Trust and such other additional documents that may be required by the City, all in substantially the form of the Loan Documents attached to the Redevelopment Area Loan Guidelines and defined in such guidelines

(qqq) "Redevelopment Area Loan Guidelines" The guidelines established from time to time by the City Representative in its sole discretion that set forth the policies and procedures for making a Redevelopment Area Loan, an initial copy of which is set forth in Exhibit "G" of this Agreement, and by this reference incorporated in it

(rrr) "Retail/Office/Mixed Use Improvement" Each Retail/Office/Mixed Use Improvement, whether new construction, reconstruction, rehabilitation or installation of new or used equipment, to be constructed by the Corporation or a private developer on a particular portion of the Redevelopment Area as described in the Retail/Office/Mixed Use Plans Further, and unless otherwise agreed to in writing by the City, if the Corporation or private developer desires to construct a Retail/Office/Mixed Use Improvement in one or more phases, the Loan Advances available from either the Original Agreement or this Agreement for any one phase are limited to an amount equal to the "Retail/Office/Mixed Use Improvements" line item in the Approved Capital Budget which is applicable to the Original Agreement or this Agreement Any improvements constructed by the Corporation or a private developer may be a part of a mixed use development that, in addition to retail and office uses, includes residential uses

(sss) "Retail/Office/Mixed Use Plans" Each set of all contracts and agreements, written or oral with respect to each Retail/Office/Mixed Use Improvement, between an Architect and the Corporation or a private developer, approved in writing by the City Representative, whether under the Original Agreement or this Agreement, together with the final site development and building permits, plans, specifications, shop drawings and other technical descriptions prepared for the construction of all or part of the particular Retail/Office/Mixed Use Improvement, and all amendments and modifications thereof

(ttt) "Secretary" The Secretary of HUD

(uuu) "Statement of Work" The work to be performed under this Agreement as set forth on the attached Exhibit "H", and all amendments and modifications thereto

(vvv) "Substantial Interest" Shall have the meaning assigned to it in section 2-3-2 of the Code of the City of Austin, 1992

(www) "Substantial Interest in Real Property" Shall have the meaning assigned to it in section 2-3-2 of the Code of the City of Austin, 1992

(xxx) "Title Company" The issuer of the Title Insurance

(yyy) "Title Insurance" A mortgagee policy of title insurance in form and substance satisfactory to the City, with a subsequent assignment to the Secretary, and containing no exceptions (printed or otherwise) which are unacceptable to the City or the Secretary, issued by a title company acceptable to the City or the Secretary and insuring that the City has a first-priority lien on the Mortgaged Property, subject only to the Permitted Encumbrances

(zzz) "Training Opportunities" The process of providing the Agency and the Corporation the ability to increase its knowledge and understanding of the processes, procedures, laws, rules and regulations associated with the development process, including but not limited to land acquisition under the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U S C 4601-4655) The City Representative will assist in increasing the acquisition knowledge of the Agency and the Corporation by providing a copy of written or electronic documents transmitted with respect to completed property acquisitions, subject to the requirements of the Texas Public Information Act, Chapter 552, Texas Government Code The City representative will provide advanced notice to the Agency and the Corporation when training opportunities become available The Agency and the Corporation are responsible for applying this information and assistance to help develop the in-house capacity needed for future redevelopment projects

(aaaa) "Urban Renewal Plan" The plan for the redevelopment of the Redevelopment Area adopted by ordinance of the City Council on January 14, 1999, in accordance with Section 374 014, Texas Local Government Code, as amended It is expressly understood that any further modifications to the plan for the redevelopment of the Redevelopment Area adopted by the City Council in accordance with Section 374 014(e), Texas Local Government Code, are automatically incorporated in it without specific reference

(bbbb) "Urban Renewal Project" The implementation of the Urban Renewal Plan by the parties to this Agreement

(cccc) "Urban Renewal Project Powers" The powers granted the Agency pursuant to Section 374 021(b), Texas Local Government

(dddd) "Vacant Redevelopment Area Property" Redevelopment Area Property which at the time of making an offer to purchase is described in a Project Acquisition and Disposition Plan, and is identified in the Project Acquisition and Disposition Plan as Property the City is authorized to negotiate the purchase of on behalf of the Agency

ARTICLE 2 AMOUNT AND TERMS OF FINANCING

Section 2.1 Term. By action of each party this Agreement shall commence on the

effective date first above stated and shall end on 1 October 2010, unless extended, suspended, or terminated in accordance with other applicable conditions and provisions of this Agreement. City, Agency and Corporation each have two options to extend the term of this Agreement for one additional year each to 1 October 2011 and 1 October 2012, provided each party agrees in writing to exercise its right to extend the Agreement on or before this Agreement otherwise expires. If the Agreement is terminated for any reason other than default by the Corporation, the Corporation will have the right to proceed under any executory Redevelopment Agreement, and to process any complete Phase One or Phase Two Project Acquisition and Disposition Plan submission approved by the Agency.

Section 2.2 Availability of Funds for Advances to the Agency and for Redevelopment Area Loans Subject to the terms of this Agreement and the receipt of HUD Guaranteed Loan Proceeds by the City, the City will make funds available for the purpose of funding Advances to the Agency and Advances under Redevelopment Area Loans in the aggregate amount not to exceed **EIGHT HUNDRED EIGHTEEN THOUSAND ONE HUNDRED AND NO/100 DOLLARS** (\$818,100) as described in ARTICLE 5 of this Agreement (\$900,000 for the period ending 30 September 2007). Such Advances shall be made solely for the purpose of carrying out the Urban Renewal Project in accordance with this Agreement and shall be made in accordance with the provisions of this Agreement and any applicable Redevelopment Area Loan Agreement.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations and Warranties of the City The City warrants and represents to the Agency and the Corporation that the City has, in general, complied with all Legal Requirements applicable to the execution and delivery of this Agreement and the performance by the City of its obligations thereunder.

Section 3.2 Representations and Warranties of the Agency The Agency warrants and represents to the parties that the Agency has (or, before Property Acquisition begins, will have) (1) filed and/or recorded the Urban Renewal Plan in the Travis County, Texas, real property records, and (2) in general, complied with all Legal Requirements applicable to the execution and delivery of this Agreement, the performance by the Agency of its obligations hereunder and the acquisition of any Property.

Section 3.3 Representations and Warranties of the Corporation The Corporation warrants and represents to the parties as follows:

(a) Compliance with Legal Requirements The Corporation has (or, before Property Acquisition or construction of a Retail/Office/Mixed Use Improvement begins, as appropriate, will have)

- (1)** received all requisite building permits and approvals of the Retail/Office/Mixed Use Plans,
- (2)** filed and/or recorded all requisite plats and other instruments in connection with the Retail/Office/Mixed Use

Improvement, and

- (3) in general, complied with all Legal Requirements applicable to the execution and delivery of this Agreement, the performance by the Corporation of its obligations hereunder, the acquisition of Property, and the commencement of construction of the Retail/Office/Mixed Use Improvement

(b) Streets, Easements, Utilities and Other Services All streets, easements, utilities and related services necessary for the construction of the Retail/Office/Mixed Use Improvement and the operation thereof for their intended purpose are (or within thirty (30) calendar days after construction of a Retail/Office/Mixed Use Improvement begins, will be) available to the boundaries of that portion of the Redevelopment Area on which the Retail/Office/Mixed Use Improvement is to be constructed by the Corporation, including potable water, storm and sanitary sewer, gas, electric and telephone facilities and garbage removal

ARTICLE 4 **COVENANTS**

Section 4.1 **Covenants of the City** The City covenants to Agency, and with respect to Section 4 1(g) instructs the Agency, as follows

(a) City Staff Assistance to Agency City agrees to make available to the Agency City employees for the administration of the Agency's day to day operations Without limiting the foregoing, City staff services shall include general administration services, and with the Agency's consent, real estate negotiation, disposition and relocation services, eminent domain acquisition and legal services, accounting services, other legal services (other than when a conflict arises), accounting and auditing services, purchasing and bid solicitation services of the Agency and other activities and functions that may be necessary or required to carry-out the operations and activities of the Agency The City agrees to enter into negotiations with the Agency defining, among other items, the City's authority and process in its representation, negotiation, and commitments made on behalf of the Agency in this Agreement Any final agreement between the City and the Agency on these issues will be set forth in a separate operational agreement

(b) Public Improvements in Redevelopment Area City intends to design and construct necessary public infrastructure improvements in the Redevelopment Area City will receive input from the Corporation with respect to what public infrastructure improvements are needed in the Redevelopment Area City, or its authorized agent or contractor, shall have the sole responsibility and discretion to prepare necessary bid documents, enter into contracts with contractors to construct such public infrastructure improvements, make any and all public infrastructure improvements and supervise such construction as City deems necessary for the Redevelopment Area

(c) Acquisition of Property Except with respect to the Contributed Property, the City has the sole responsibility for conducting all Property Acquisition on behalf of the Agency in the Redevelopment Area, including responsibility and authority to institute

adequate processes, procedures and systems that will ensure compliance with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended (42 U S C 4601-4655), including without limitation, compliance with all federal laws and regulations described in 49 CFR, Part 24 With respect to any Property Acquisition which results in the need to condemn Property in accordance with Chapter 374, Texas Local Government Code, City agrees to seek authorization from the Agency and shall represent and manage the condemnation process on behalf of the Agency in accordance with the Legal Requirements The City Representative shall be the central point of contact for all Project and Property Acquisition related issues The City Representative is responsible for providing Training Opportunities to the Corporation and the City Representative will be available on a reasonable schedule to respond to general Property Acquisition related questions and issues as requested by named staff members of the Corporation

(d) Urban Renewal Plan Modification Process With respect to any Urban Renewal Plan proposed modification the City receives from the Corporation, the City shall immediately submit the proposed modification from the Corporation to the Agency and the City's Planning Commission The City shall not take action on any proposed modification until it receives a recommendation from the Agency and the City's Planning Commission Recommendations from the Agency and the City's Planning Commission shall be made within ninety (90) calendar days

(e) Public Hearing Notifications for Urban Renewal Plan Modifications With respect to any Urban Renewal Plan modification in accordance with Chapter 374, Texas Local Government Code, the City, no less than thirty (30) calendar days prior to the regularly scheduled meeting of the Agency at which a public hearing on the modification is held, shall notify the public about the hearing and the opportunity to present and explain any concerns about or support for the proposed modification to the Urban Renewal Plan in the same manner as used by the City for a zoning change Written and spoken comments from the public shall be made available to the Agency and City at the time the modification to the Urban Renewal Plan is posted for action by the Agency or the City

(f) Record Confidentially The City agrees, at all times, to keep confidential all client and personnel identifying information unless required by law to release such information

(g) Proposed Block 18 Tract Project Provided the Corporation submits to the City Representative and the Agency on or before 31 December 2007 a complete Phase One Project Acquisition and Disposition Plan for the Block 18 Tract conditioned upon a proposed Urban Renewal Plan modification, is not in default under this Agreement and proceeds in accordance with this Agreement and the Property Acquisition/Disposition Plan to complete the project, the City shall not authorize the transfer of the Block 18 Tract to any Person, other than the Corporation, prior to 1 October 2010

Section 4.2 Covenants of the Agency. The Agency hereby covenants with the City as follows

(a) Acquisition of Property The Agency, when a Phase One Application

under the Property Acquisition/Disposition Plan is approved, will promptly authorize the City to begin the acquisition of Property on behalf of the Agency in the Redevelopment Area and thereafter diligently and with continuity complete the acquisition in substantial accordance with the Urban Renewal Plan, the Property Acquisition/Disposition Plan, each Project Acquisition and Disposition Plan, the Approved Capital Budget, the Legal Requirements and the other provisions of this Agreement, including without limitation Section 6.1 of this Agreement, free and clear from all Liens, or claims for Liens, other than any Liens created by the Financing Documents

(b) Transfer of Property to the Corporation or a private developer The Agency, when acceptable to the City, will promptly transfer and dispose of Property through the Agency by a Redevelopment Agreement to the Corporation or a private developer in accordance with Section 6.1(b) in connection with a Redevelopment Area Loan or other source of financing and thereafter, with respect to a transfer to the Corporation, diligently and with continuity complete the disposition in compliance with the Urban Renewal Plan, the Property Acquisition/Disposition Plan, each Project Acquisition and Disposition Plan, the Legal Requirements, the Approved Capital Budget and the other provisions of this Agreement, including without limitation Section 6.1 of this Agreement, free and clear from all Liens, or claims for Liens, other than any Liens created by the Financing Documents or a Redevelopment Agreement

(c) Insurance Coverage The Agency, at the expense of City through a separate agreement, shall obtain and maintain, in full effect, an insurance policy or policies, in amounts and on terms described in the Insurance Requirements

(d) Modifications to the Urban Renewal Plan. The Agency shall hold a public hearing and make recommendation to the governing body of the City on any proposed modifications to the Urban Renewal Plan

(e) Proposed Block 18 Tract Project If the Corporation submits a complete Phase One and Phase Two Project Acquisition and Disposition Plan submission for the Block 18 Tract, the Agency shall review and evaluate the submissions under the criteria and timelines set forth in this Agreement and the Property Acquisition/Disposition Plan. If the City Representative recommends approval, then the Agency, by separate action, shall authorize the transfer of the Block 18 Tract to the Corporation

Section 4.3 Covenants of the Corporation The Corporation hereby unconditionally covenants with the City as follows

(a) Recommendation Concerning Public Improvements in Redevelopment Area Corporation shall provide the City Representative recommendations concerning the types of public infrastructure improvements needed in the Redevelopment Area as provided and paid for through a separate agreement

(b) Modifications to the Urban Renewal Plan. Any proposed modifications to the Urban Renewal Plan shall be submitted to and reviewed by the Corporation to obtain community input. After receiving community input, the Corporation shall provide a written report to the City and the Agency regarding the proposed modifications in accordance with

(c) Agency Transfer of Property to the Corporation The Corporation agrees to acquire Property from the Agency and thereafter diligently and with continuity complete the acquisition in compliance with the Urban Renewal Plan, the Property Acquisition/Disposition Plan, each Project Acquisition and Disposition Plan, the Legal Requirements, the Approved Capital Budget, the Redevelopment Agreement and other provisions of this Agreement, including without limitation Section 6 2 of this Agreement

(d) Construction of Retail/Office/Mixed Use Improvement Upon the execution and delivery of a Redevelopment Agreement relating to any Retail/Office/Mixed Use Improvement, or a portion of any Retail/Office/Mixed Use Improvement, the Corporation will promptly begin construction of the Retail/Office/Mixed Use Improvement and thereafter diligently and with continuity complete the Retail/Office/Mixed Use Improvement in a good and workmanlike manner in substantial accordance with the Retail/Office/Mixed Use Plans and the other provisions of this Agreement free and clear from all Liens, or claims for Liens, other than the Liens created by the Financing Documents' Construction of each Retail/Office/Mixed Use Improvement shall not begin unless the Corporation has complied with all requisite Legal Requirements and the City has reviewed and approved the Retail/Office/Mixed Use Plans No changes of a material nature will be made to any Retail/Office/Mixed Use Plans after the City's approval thereof without the prior written approval of all requisite Governmental Authorities, prior compliance with all requisite Legal Requirements and the prior written consent of the City Representative The City's written approval of any Retail/Office/Mixed Use Plans (or any change therein), shall be strictly limited to an acknowledgment of the City's consent to the Retail/Office/Mixed Use Improvement being constructed in accordance therewith and shall not, in any way, be deemed to imply any warranty, representation or approval by the City that such Retail/Office/Mixed Use Improvement, if so constructed, will be structurally sound, will comply with Legal Requirements, will be fit for any particular purpose or will have a market value of any particular magnitude Within twenty (20) calendar days after construction of any Retail/Office/Mixed Use Improvement has commenced, the Corporation shall execute and file an affidavit of commencement in accordance with Section 53 124(c) of the Texas Property Code and provide a copy thereof to the City

(e) Operation of Mortgaged Property Upon completion of any improvements to any Mortgaged Property, the Corporation will promptly begin operation of the Mortgaged Property in accordance with the Legal Requirements and the Operational Guidelines and thereafter diligently and with continuity operate the Mortgaged Property The Corporation, subject to prior written approval by the City Representative, shall enter into a Facility Management Agreement or, in the event the Corporation determines a Facility Manager will not be secured for all or any portion of Mortgaged Property, prepare a Facility Management Plan with respect to any Mortgaged Property not less than ninety calendar days prior to completion of any Mortgaged Property, or any time thereafter with the written approval of the City Representative Notwithstanding the previous sentence, if the Corporation has entered into one or more lease agreements concerning the Mortgaged Property, each with a term of three or more years and the total of all annual lease payments are sufficient to cover the annual debt service requirements on the Mortgaged Property, the Corporation is not obligated to enter into a Facility

Management Agreement or prepare a Facility Management Plan with respect to the Mortgaged Property. The Corporation shall monitor the activities of any Facility Manager and report to the City Representative as required by this Agreement.

(f) The Corporation's Responsibilities The Corporation is responsible for all aspects of the Corporation's business and conduct in connection with construction of any Retail/Office/Mixed Use Improvement to the Mortgaged Property, including without limitation

- (1) the quality and suitability of the Retail/Office/Mixed Use Plans,
- (2) supervision of construction of the Retail/Office/Mixed Use Improvement,
- (3) the qualifications, financial condition and performance of all architects, engineers, contractors, subcontractors and material suppliers, consultants, and property managers,
- (4) conformance of construction of the Retail/Office/Mixed Use Improvement to the Retail/Office/Mixed Use Plans, to the Legal Requirements and to the requirements of this Agreement,
- (5) the quality and suitability of all materials and workmanship, and
- (6) the accuracy of all requests for the disbursement of Advances and the proper application of Advances

(g) Prohibited Property Acquisition Activities The Corporation covenants not to engage in any activity that violates the Federal Requirements, specifically, the Corporation will work with the City to ensure that the Corporation will not compromise the City's responsibilities for Property Acquisition.

Section 4.4 Additional Affirmative and Negative Covenants of the Corporation. The Corporation hereby unconditionally covenants with the City and the Agency as follows

(a) Affirmative Covenants At all times during Property Acquisition and the construction of a Retail/Office/Mixed Use Improvement by the Corporation and operation of the Mortgaged Property, the Corporation shall at its sole expense

- (1) permit the City, the Agency or their representatives, to enter upon the Property and into the Retail/Office/Mixed Use Improvement, to inspect them and all materials to be used in the construction of the Retail/Office/Mixed Use Improvement and to examine the Retail/Office/Mixed Use Plans,

- (2) comply strictly with all Legal Requirements,
- (3) deliver to the City, the Agency or their representatives, within ten (10) calendar days following demand, all Financing Documents, closing documents, escrow contracts and accountings, and HUD-1 settlement statements in connection with any Property Acquisition,
- (4) deliver to the City, the Agency or their representatives, within ten (10) calendar days following demand, counterparts and/or conditional assignments of all Development Contracts, bills of sale, statements, conveyances, receipted vouchers or agreements of any nature under which the Corporation claims title to any materials or supplies used or to be used in the construction of the Retail/Office/Mixed Use Improvement,
- (5) unless otherwise agreed to in writing by the City, either cause each Development Contract to contain a provision specifically subordinating any Lien right against the Mortgaged Property to the Liens created by the Financing Documents or cause the other party thereto to execute instruments, acceptable in form and substance to the City, to accomplish such subordination,
- (6) upon request of the City, , furnish within ten (10) calendar days after the pouring of each concrete slab, street and curbstone within two feet of the property boundary or easement, the completion of each foundation of a structure forming part of the Retail/Office/Mixed Use Improvement and the completion of the Retail/Office/Mixed Use Improvement, a survey certified to the City by a licensed surveyor acceptable to the City showing all of same and that the location thereof is entirely within the property lines of the Property and does not encroach upon, breach or violate any building line, easement or similar restriction,
- (7) use all Advances made to it by the City for, and only for, payment of the costs itemized in the Approved Capital Budget, the Redevelopment Area Loan Documents or other agreement and under no circumstances use, directly or indirectly, any portion of such Advances for any other purpose,
- (8) obtain and maintain, in full effect, an insurance policy or policies, in amounts and on terms described in the

Insurance Requirements,

- (9) if the City requests, furnish the City with a current list of original contractors, subcontractors, materialmen and vendors performing work on the Property Acquisition or the Retail/Office/Mixed Use Improvement,
- (10) promptly advise the City and the Agency when the cost of the Property Acquisition or the cost of completing the Improvements or Retail/Office/Mixed Use Improvement in accordance with any Retail/Office/Mixed Use Plans will exceed or appear likely to exceed the amount budgeted therefor, either in the aggregate or with respect to any particular item in the Approved Capital Budget, and shall give the City and the Agency detailed information with respect thereto, including a financial plan of sources and uses that outlines a solution to resolving the lack of funds,
- (11) within twenty (20) business days following demand of the City or other Governmental Authority, the Corporation must begin repairs/corrective action to any structural defect in any Retail/Office/Mixed Use Improvement, or to any material departure from any Retail/Office/Mixed Use Plans not accepted and approved by the City, and no Advance shall waive the City's right to require compliance with this Section 4.4(a)(11) with respect to any such defects or departures. The repairs/corrective action of the defects or departures must be completed within the time allowed by the City or Governmental Authority. The time allowed by the City must be reasonable based on the nature of the repairs or corrective action required. The Corporation must notify the City Representative and the Agency of any notice of structural defect or departure, or notice of any deficiency received from any Governmental Authority within five (5) calendar days of receipt of said notice,
- (12) within ten (10) calendar days following demand of the City or the Agency, or as otherwise required in this Agreement, provide with respect to any contractual transaction, arrangement or activity concerning any acquisition, demolition, construction, improvement, reconstruction, rehabilitation, use, maintenance, operation or occupancy in the Redevelopment Area, whether or not the transaction, arrangement or activity is financed with an Advance, in which the Corporation, a person or business entity with an identity of interest to the Corporation, a member of the

— Board of Directors of the Corporation, an employee of the —
Corporation, or a person related in the first degree by
consanguinity or affinity, as determined under Chapter 573,
Texas Government Code, to a member of the Board of
Directors of the Corporation or an employee of the
Corporation has a Substantial Interest or a Substantial
Interest in Real Property, a full and complete disclosure of
all documents and agreements, whether written or oral, in
connection with such contemplated transaction,
arrangement or activity, or respecting the business and
affairs of the Corporation, that the City and the Agency
may reasonably request, satisfactory in form and substance
to the City or the Agency and certified, when appropriate,
by proper corporate officers and governmental authorities,

(13) within five (5) calendar days after Completion of any
Retail/Office/Mixed Use Improvement, the Corporation
shall execute and file an affidavit of completion in
accordance with Section 53 106 of the Texas Property
Code, deliver copies thereof to all Persons specified in such
Section 53 106 within the time period required thereunder,
and provide copies thereof to the City,

(14) any vote by the Corporation Board relating to a Project
Acquisition and Disposition Plan, any amendment to the
Urban Renewal Plan, or any amendment or extension of
this Agreement shall not take place unless a quorum of the
Corporation Board is physically present at said meeting, no
proxy votes are allowed to approve or disapprove the action
item, and the minutes with respect to the action reflect how
the quorum was established by a listing of the active
members, a record of the Corporation's Board members in
attendance for the action item and each vote made with
respect to the action item,

(15) In the case of the Corporation's Phase One Project
Acquisition and Disposition Plan approved by the Agency
on 15 May 2000 by URA Resolution No 2000-0515-04
concerning the Block 18 Tract, the Corporation is
withdrawing, and cancelling its Phase One Project
Acquisition and Disposition Plan and the City and Agency
are released and held harmless by the Corporation from any
further requirements to transfer the property to the
Corporation under the Phase One, and

(16) perform all other Obligations when required

(b) ~~—~~Negative Covenants of the Corporation At all times during the term of ~~—~~ this Agreement, the Corporation shall not

- (1) use, maintain, operate or occupy, or allow the use, maintenance, operation or occupancy of, any portion of the Redevelopment Area for any purpose which violates the Urban Renewal Plan, any Legal Requirement or in any manner which may be dangerous unless safeguarded as required by law or which may constitute a public or private nuisance or which may make void, voidable or cancelable or increase the premium of any insurance then in force with respect thereto, or
- (2) enter into any contract funded with an Advance with any party, other than the City or the Agency, for the acquisition, demolition, construction, improvement, reconstruction, rehabilitation, use, maintenance, operation or occupancy with respect to any activity within the Redevelopment Area for any purpose without first
 - (A) selecting the contracting party through Competitive Bidding, and
 - (B) obtaining the City's written approval of the solicitation documents and agreement prior to execution of any contract exceeding \$5,000, or
- (3) default in the performance of any of the duties or obligations imposed upon the Corporation or an affiliate entity by the terms, covenants and agreements of that certain Subrecipient Professional Services Agreement, entered into by and between Corporation and City, dated 26 October 2004, as amended or as may be subsequently amended (the "Administrative Contract"), that certain East 11th and 12th Streets Program Loan Agreement (ARA Retail Predevelopment Project), entered into by and between Corporation and City, dated 28 February 2001, as amended or as may be subsequently amended (the "Loan Agreement"), that certain East Austin Redevelopment Loan Agreement (Eleven East), entered into by and between Corporation and City dated 9 April 2003, as amended or as may be subsequently amended shall be and constitute a default under this Agreement, or any subsequent Redevelopment Agreement the Corporation enters into with the City or the Agency, or

- (4) acquire any Property other than under a Redevelopment Agreement, or
- (5) incur any costs with respect to Property prior to acquiring the Property that could result in a Lien being placed on the Property unless approved in writing by the City Representative and the Agency, or
- (6) claim a property interest or Chapter 245, Texas Local Government Code, vesting right as a result of any submittal required or previously made under this Agreement

Section 4.5 Negative Covenants of the Agency At all times during the term of this Agreement, the Agency shall not be required under this Agreement to review or approve the HUD Documents, or any Redevelopment Area Loan or Redevelopment Area Loan Documents

Section 4.6 Negative Covenants of the Agency and the Corporation At all times during Property Acquisition and the construction of a Retail/Office/Mixed Use Improvement and operation of the Mortgaged Property, neither the Agency nor the Corporation shall create or place, permit to be created or placed or, through any act or failure to act, acquiesce in the creation or placing of, or allow to remain, any Lien on the Mortgaged Property (or any portion thereof) other than those created by or expressly permitted under the applicable Financing Documents, regardless of whether it is expressly subordinate to the Liens created in the Financing Documents. If any such Lien is asserted against the Mortgaged Property (or any portion thereof), the Agency or the Corporation shall promptly give the City notice thereof. The notice shall specify who is asserting such Lien and shall detail the origin and nature of the underlying claim giving rise to the asserted Lien

ARTICLE 5 **LOANS AND ADVANCES UNDER THE AGREEMENT**

Section 5.1 **Advances to the Agency**

(a) Advances for Property Acquisition Directly from Private Owners Provided the conditions set forth in ARTICLE 9 of this Agreement are satisfied and the total amount to be advanced, together with all prior Advances and all amounts then committed to be advanced under Redevelopment Area Loans, does not exceed the amount set forth in the Approved Capital Budget, one or more Advances may be made to or on behalf of the Agency by the City for the purpose of providing funds for the acquisition of Property in the Redevelopment Area. The Advances made hereunder and all acquisitions of Property in the Redevelopment Area by the Agency shall be made in accordance with and be consistent with the provisions of Section 6.1(a) of this Agreement and the Redevelopment Area Loan Documents

(b) Limitations and Obligations of the Agency The Agency acknowledges that, with respect to Mortgaged Property, the Agency is obligated to acquire, hold, and transfer the Mortgaged Property in accordance with this Agreement, the Urban Renewal Plan, the Legal Requirements, and as otherwise directed by the City

Section 5.2 — Loans to the Corporation

(a) Loans for Property Acquisition and for Retail/Office/Mixed Use Improvement Provided the conditions set forth in ARTICLE 9 of this Agreement are satisfied and the total amount to be advanced pursuant to the related Redevelopment Area Loan, together with all prior Advances and all amounts then committed to be advanced under other Redevelopment Area Loans, does not exceed the amount set forth in the Approved Capital Budget, the City and the Corporation may enter into one or more Redevelopment Area Loan Agreements to evidence one or more Redevelopment Area Loans made for the purpose of providing funds to the Corporation for (i) acquisition of Property in the Redevelopment Area and (ii) the construction of a Retail/Office/Mixed Use Improvement. Any Redevelopment Area Loan made pursuant to this Section shall be made in accordance with the Redevelopment Area Loan Guidelines and shall be evidenced by Redevelopment Area Loan Documents, provided, that the City may require a Redevelopment Agreement and such additional provisions to be included in such documents as it determines necessary for the Redevelopment Area Loan to be adequately secured. Transfer of any Property from the Agency to the Corporation shall be deemed an advance of funds to the Corporation in the amount set forth in the related Redevelopment Area Loan Agreement and City Note. In addition, all acquisitions of Property in the Redevelopment Area by the Corporation shall be made in accordance with and shall be consistent with the provisions of Section 6.2 of this Agreement and a Redevelopment Agreement.

(b) Limitations and Obligations of the Corporation The Corporation acknowledges that, with respect to any Mortgaged Property for which a Redevelopment Area Loan is received, the Corporation is obligated to acquire, hold, and transfer such Mortgaged Property in accordance with the related Redevelopment Area Loan Documents, if applicable, the Redevelopment Agreement, this Agreement, the Urban Renewal Plan, the Legal Requirements, and as otherwise directed by the City.

Section 5.3 Loans to Private Developers

(a) Loans for Property Acquisition Provided the total amount to be advanced pursuant to the related Redevelopment Area Loan, together with all prior Advances and all amounts then committed to be advanced under other Redevelopment Area Loans, does not exceed the amount set forth in the Approved Capital Budget, the City may enter into one or more Redevelopment Area Loans with private developers for (i) the acquisition of property in the Redevelopment Area (whether such acquisition is made from the Agency, the Corporation or a private landowner) and (ii) the construction of Improvements on any property. Any Redevelopment Area Loan made pursuant to this Section shall be made in accordance with the Redevelopment Area Loan Guidelines and shall be evidenced by Redevelopment Area Loan Documents. If the Property to be acquired will be acquired from the Agency or the Corporation, the transfer of the Property from the Agency or the Corporation shall be deemed an advance of funds to the private developer in the amount set forth in the related Redevelopment Area Loan Agreement and City Note. In addition, all acquisitions of Property in the Redevelopment Area by a private developer shall be made in accordance with and shall be consistent with the provisions of Section 6.3 of this Agreement and a Redevelopment Agreement.

(b) —Limitations and Obligations of Private Developers The Agency and the Corporation acknowledge that, with respect to any Mortgaged Property acquired by a private developer from the Agency or the Corporation and for which a Redevelopment Area Loan is made to a private developer, the City, on behalf of the Agency, or the Corporation, respectively, are obligated to ensure that such private developer acquires, holds, and transfers the Mortgaged Property in accordance with this Agreement, the Urban Renewal Plan, the Legal Requirements, a Redevelopment Agreement, and, with respect to the Corporation, as otherwise directed by the City

ARTICLE 6 **PROPERTY ACQUISITION, FUNDS FOR PROPERTY ACQUISITION; SALE OF REDEVELOPMENT AREA PROPERTY**

Section 6.1 **The Agency's Transactions.**

(a) Acquisition of Other Redevelopment Area Property Each acquisition of Redevelopment Area Property by the Agency, other than Contributed Property and Vacant Redevelopment Area Property, shall be at the direction of the City and shall include and be consistent with the following

- (1) Acquisition of the Property shall be authorized by the Board of Commissioners of the Agency, in accordance with the limitations and obligations of the Agency as set forth in Section 5 1(b) of this Agreement and the terms and conditions of any other agreement between the City and Agency
- (2) The purchase price for each Property shall be approved in advance by the City in writing
- (3) As appropriate, the Agency will acquire Property under the threat of eminent domain in accordance with Section 374 015(d) or Section 374 016, Texas Local Government Code
- (4) Prior to each Advance, the City shall prepare a Disbursement Request Form as required by any other agreement
- (5) Acquisition of the Property shall be scheduled to close on the date the City transfers the Advance
- (6) All Property acquired with Advances shall be secured by a Lien on the Property, through an appropriate and properly recorded security instrument in substantially the form of the Deed of Trust attached to the Redevelopment Area Loan Guidelines

--(7)

In the event that the covenants and agreements described herein cannot be complied with, title to such Property shall be transferred to the City, within sixty (60) calendar days after such event

(b) Sale of Property Acquired by the Agency Direct to Private Developers

At the direction of the City, the Agency shall transfer Property, including Contributed Property, to private developers. The purchase price to be paid by a private developer for Property transferred from the Agency shall be determined by the City. Unless the entire purchase price for the Property is to be paid at closing by the private developer, the Agency shall transfer Property to a private developer only in connection with a Redevelopment Area Loan from the City to the private developer made in accordance with the Redevelopment Area Loan Guidelines. Additionally, all transfers of Property from the Agency to a private developer shall be in accordance with the disposition of property provisions of Section 374.017, Texas Local Government Code, as amended, this Agreement, the Urban Renewal Plan, the Legal Requirements, a Redevelopment Agreement and as otherwise directed by the City. All funds received by the Agency in connection with a transfer under this Section shall be transferred to the City in accordance with instructions from the City. With respect to any solicitation issued by the Agency in accordance with this Section 6.1(b), the Corporation may submit to and be selected by the Agency in the same manner as any private developer responding to the solicitation.

(c) Sale of Property Acquired by the Agency to the Corporation

At the direction of the City, the Agency shall transfer Property, including Contributed Property, to the Corporation as allowed by the Property Acquisition/Disposition Plan by a Redevelopment Agreement. The purchase price to be paid by the Corporation for Property transferred from the Agency shall be determined by the City and the Agency in accordance with Section 374.017(k), Texas Local Government Code, as amended. The fair market value to be paid by the Corporation for the purchase of any Property will equal the appraised value established by an independent appraisal conducted in accordance with the Legal Requirements and acceptable to the City and the Agency.

Unless the entire purchase price for the Property is to be paid at closing by the Corporation, the Agency shall transfer Property to the Corporation only in connection with a Redevelopment Area Loan from the City to the Corporation (or, with respect to Property to be immediately conveyed by the Corporation to a private developer, in connection with a Redevelopment Area Loan to such private developer) made in accordance with the Redevelopment Area Loan Guidelines. Additionally, all transfers of Property from the Agency to the Corporation shall be in accordance with the disposition of property provisions of Section 374.017, Texas Local Government Code, as amended, this Agreement, the Urban Renewal Plan, the Legal Requirements, and as otherwise directed by the City. All Program Income received by the Agency or the Corporation in connection with a transfer under this Section shall be transferred to the City in accordance with Section 8.5 of this Agreement.

(d) Management of Property held by the Agency

Unless the Agency enters into a Property Management Agreement with an entity other than the Corporation, the Corporation shall manage all Property acquired and held by the Agency under this Agreement.

with the same degree of prudence, diligence, and care that it manages its other property and assets and in accordance with the Property Management Agreement

Section 6.2 The Corporation's Transactions.

(a) Acquisition of Property Acquired from the Agency for Immediate Resale to Private Developers At the direction of the City, the Corporation will acquire Property from the Agency in accordance with the Property Acquisition/Disposition Plan for immediate resale to a private developer. Each such acquisition shall be in accordance with the provisions of Section 6.1(c) of this Agreement. The sale price of the Property to a private developer under this Section shall be equal to the purchase price paid by the Corporation in acquiring the Property from the Agency. Unless the entire purchase price for the Property is to be paid at closing by the private developer purchasing the Property, the Corporation shall transfer the Property to the private developer only in connection with a Redevelopment Area Loan from the City to the private developer made in accordance with the Redevelopment Area Loan Guidelines, this Agreement, the Urban Renewal Plan, the Legal Requirements, and as otherwise directed by the City. All funds received by the Corporation in connection with a transaction or transactions under this Section shall be transferred to the Agency in payment of all or part of the purchase price for the Property acquired by the Corporation from the Agency.

(b) Acquisition of Property Acquired from the Agency for Private Use by the Corporation The Corporation may acquire the Property from the Agency for use by the Corporation. Each such acquisition shall be made in accordance with the provisions of Section 6.1(c) of this Agreement. The City and the Agency recognize that the Corporation may, from time to time, acquire Property from private parties outside of the Redevelopment Area, including non-profit corporations, with funds available from non-federal sources and that such acquisitions shall not be subject to the requirements of this Agreement.

(c) Management of Property held by the Corporation In addition to any other requirements set forth in any Redevelopment Area Loan Documents, the Corporation shall manage all property in the Redevelopment Area that it acquires or is held by it under this Agreement with the same degree of prudence, diligence, and care with which the Corporation manages its other property and assets.

Section 6.3 Direct Acquisition of Property by a Private Developer. The City, the Agency, and the Corporation recognize that a private developer may acquire Property in the Redevelopment Area from a party other than the City, the Agency or the Corporation and that in connection with such acquisition may seek a Redevelopment Area Loan from the City. The City shall determine, in its sole discretion, whether to make such a Redevelopment Area Loan to a developer. Any such Redevelopment Area Loans shall be made in accordance with the Redevelopment Area Loan Guidelines, this Agreement, the Urban Renewal Plan, the Legal Requirements, and as otherwise directed by the City, and shall be in such amount as may be deemed appropriate by the City in its sole discretion.

ARTICLE 7 LOANS TO THE CORPORATION AND PRIVATE DEVELOPERS FOR IMPROVEMENTS

Section 7.1 — Improvement Loans The City, the Agency, and the Corporation recognize that the City may make Redevelopment Area Loans to the Corporation or a private developer for a Retail/Office/Mixed Use Improvement and to private developers for Improvements to Property in the Redevelopment Area. Such Redevelopment Area Loans may be made separately or as part of the financing of the Property or on which such improvements are to be made. The City shall determine, in its sole discretion, whether to make such a Redevelopment Area Loan. Any Redevelopment Area Loan for a Retail/Office/Mixed Use Improvement to Property shall be made substantially in accordance with the Redevelopment Area Loan Guidelines, provided, that the City may add such restrictions or provisions as it may deem desirable, including, among others, provisions relating to loan amount, collateral requirements, disbursements, operations, sale, leasing, or disposition. Further, in the event a material adverse change is requested to the related Redevelopment Area Loan Documents, no such change is allowable without first obtaining City Council's approval of the requested change.

ARTICLE 8 FEDERAL RESTRICTIONS

Section 8.1 Development and Revenue Accounts

(a) The Agency's Account Unless otherwise approved by the City Representative, the Agency shall maintain a special account (the "**Development and Revenue Account - URA**") into which Advances and Receipts (but no other funds) will be deposited and against which checks shall be drawn only for payment of the purchase price of Property acquired pursuant to this Agreement, for other items in the Approved Capital Budget, for payment of bills for labor and materials incident to the purchase of Property from Advances and CDBG Funds under this Agreement and for payment of any Program Income generated from Advances and CDBG Funds and due the City under this Agreement.

(b) The Corporation's Account Unless otherwise approved by the City Representative, the Corporation shall maintain a special account (the "**Development and Revenue Account - ARA**") into which Advances and Receipts (but no other funds) will be deposited and against which checks shall be drawn only for payment of bills for labor and materials incident to the construction of the a Retail/Office/Mixed Use Improvements, for other items in the Approved Capital Budget, for payment of bills for labor and materials incident to the operation and maintenance of the Improvements, for payment of any Program Income due the City under this Agreement, for payment of the acquisition price of any Property acquired by the Corporation for immediate resale to a private developer and payment of debt service on a Redevelopment Area Loan.

(c) Status of Accounts following a Default After a Default, the City may apply funds on deposit in the Development and Revenue Accounts to the satisfaction of any covenant or condition hereof.

(d) Development and Revenue Account Covenants The Agency and the Corporation further covenant that with respect to the Development and Revenue Accounts, as appropriate

(1) Such accounts shall contain only the funds received

pursuant to this Agreement and that no other funds shall be mingled with funds in such account. The Agency and the Corporation shall support all checks and withdrawals from said accounts with itemized documentation of costs under this Agreement.

- (2) The City shall have the right at any time to enforce its right to recapture any funds in the accounts as provided in Section 9.8 or Section 9.9 of this Agreement without any notice or other obligation to the Agency or the Corporation.
- (3) The City shall have a Lien upon any balance in said accounts paramount to all other liens, which Lien shall secure the repayment of any advance payment made hereunder. The Agency and the Corporation further covenant that each will execute any and all security agreements and other documents the City determines necessary to evidence said Lien.
- (4) Said accounts shall be maintained, under conditions approved by the City, in a financial institution, with Federal deposit insurance coverage and the balance, if any, exceeding the Federal deposit insurance coverage shall be collaterally secured.

Section 8.2 Reports, Meetings and Information. During the term of this Agreement

(a) At such times and in such form as the City may require, and upon reasonable advance notice, the Corporation shall furnish such statements, records, reports, data and information, as the City may request and deem pertinent to matters covered by this Agreement.

(b) The Agency shall make available to the City all statements, records, reports, data and information of the Agency with respect to the Urban Renewal Project as the City may request and deem pertinent to matters covered by this Agreement. Based on such material and information the City may prepare any reports necessary with respect to the Urban Renewal Project. At the request of the Agency the City will make available such reports to the Agency.

(c) A monthly Performance Report and Budgeted/Actual Variance Report, in a form required by the City or the Redevelopment Agreement or Financing Documents, shall be submitted to the City by the Corporation for each month, no later than ten (10) calendar days after the end of each required monthly reporting period or as required by the Redevelopment Agreement or Financing Documents. The Corporation agrees to gather information and data relative to all programmatic and financial reporting as of the beginning date specified in Section 2.1 of this Agreement, and shall make available to the City, and the Agency upon its request, the

following original information and material for the applicable monthly period

- (1) all leases entered into with regard to any property acquired with funds received pursuant to this Agreement,
- (2) documents that support all procurements,
- (3) contracts entered into,
- (4) proof of insurance on any Mortgaged Property acquired with Advances or CDBG Funds,
- (5) any additional information or material the City may reasonably request concerning this Agreement, and
- (6) all additional information and material required by the Redevelopment Agreement or Financing Documents

(d) The Corporation agrees to annually provide the City and Agency with an inventory of the Property as of September 30 no later than October 31. The Corporation shall maintain adequate accountability and control over its Property, shall maintain adequate property records in a form acceptable to the City, and perform an annual physical inventory which shall be submitted to the City and Agency on or before October 31 of each year during the term of this Agreement.

(e) When requested by the City or the Agency, the Corporation shall participate in a monthly monitoring meeting which shall occur within thirty (30) calendar days following the end of the Corporation's monthly reporting period, unless extended by mutual agreement.

Section 8.3 **Audit** The Agency and the Corporation agree to submit to the City a complete set of audited financial statements and the auditor's opinion and management letters in accordance with OMB Circular No. A-133, the OMB Circular A-133 Compliance Supplement, and the Single Audit Act of 1984, as amended, covering the Agency's and the Corporation's fiscal year until the termination of this Agreement. In the event the City, at the direction of its auditors, determines, in writing, that the audit of the Agency should be performed as part of the single audit of the City with additional agreed upon procedures in compliance with OMB Circular A-133, then the audit otherwise required of the Agency by this Section 8.3 shall not be required.

(a) Unless the Agency's operations are included in the City's annual consolidated audit, the Agency, at the expense of the City, shall contract with an independent auditor utilizing a Letter of Engagement. The Corporation, at its expense, shall contract with an independent auditor utilizing a Letter of Engagement. The auditor must be a Certified Public Accountant recognized by the regulatory authority of the State of Texas.

(b) Unless the Agency's operations are included in the City's annual consolidated audit, the City shall provide the Agency's auditor, a copy of the appropriate OMB

Circular prior to the beginning of said audit. The Corporation shall make available to the Corporation's auditor a copy of the appropriate OMB Circular prior to the beginning of said audit. Prior to the start of the audit, a letter of engagement between the Agency, the Corporation and their respective auditors that details the services to be provided, including the audit requirements of this Section 8.3, must be executed. If a separate Agency audit is required, the Agency must provide the City Representative and the Corporation with one copy of a complete financial audit, a completed OMB No. 03480057 (Form SF-SAC) or such other form required by the City and the auditor's opinion and management letters within one hundred-eighty (180) calendar days of the end of the Agency's fiscal year, unless alternative arrangements are approved by the City. The Corporation must provide the City Representative one (1) copy (and the City Representative must provide the Agency Board of Commissioners copies within ten (10) calendar days of receipt) of a complete, Corporation Board accepted, independent financial audit, a completed OMB No. 03480057 (Form SF-SAC) or such other form required by the City and the auditor's opinion and management letters within one hundred-eighty (180) calendar days of the end of the Corporation's fiscal year, unless alternative arrangements are approved by the City.

(c) The Agency and the Corporation must provide the City Representative with annual audits as required by Section 8.3(a) of this Agreement until termination of this Agreement, unless waived by the City in writing.

(d) The expiration or termination of this Agreement shall in no way relieve the Agency and the Corporation of the above audit requirements.

Section 8.4 Inspection, Monitoring and Evaluation. The City, the Agency or HUD, through its officers, agents or employees, may, at all reasonable times

(a) Enter upon the Mortgaged Property and inspect the construction to determine that it conforms with the Retail/Office/Mixed Use Plans and all the requirements hereof,

(b) Examine, copy and make extracts of, the books, records, accounting data and other documents of the Corporation that relate in any way to the Mortgaged Property, including without limitation, all permits, licenses, consents and approvals of all Governmental Authorities having jurisdiction over the Corporation or the Redevelopment Area and all the relevant books and records of contractors and subcontractors supplying goods or services for the construction of the Improvements. All contracts let or amended by the Corporation or its contractors and subcontractors after the date hereof relating to construction of the Improvements will permit the foregoing inspection rights, except where such rights have been waived by the City in writing.

Section 8.5 Program Income.

(a) For purposes of this Agreement, program income, if any, includes, but is not limited to, earnings of the Agency or the Corporation realized from activities undertaken in accordance with this Agreement or from the Agency's or the Corporation's management of funding provided or received hereunder. Such earnings include, but are not limited to, income from interest, usage or rental fees, income produced from Agreement supported services of

individuals or employees or from the use of equipment or facilities of the Agency or the Corporation provided as a result of this Agreement, payments from clients or third parties for services rendered by the Agency or the Corporation under this Agreement, revenue received from the sale or transfer of Property and any other amounts defined at 24 CFR §570 500(a)

(b) Except for income or earnings generated by an Office/Retail Improvement or Improvements which are received by the Corporation or a Person that is a private developer and are financed by a Redevelopment Area Loan, or upon written request to and approval by the City, the Agency and the Corporation shall report and remit to the City for deposit in either the Guaranteed Loan Funds Account or the Loan Repayment Account described in the HUD Documents, as determined by the City in its sole discretion, on a monthly basis, all Program Income received or accrued during the applicable period. Any retained Program Income may be used only for an eligible activity as provided in 24 CFR §570 504(c), but subject to any security requirements in the HUD Documents

(c) Records of the receipt and disposition of program income must be maintained by the Agency and the Corporation in the same manner as required for other Agreement funds, and reported to the City Representative in the format prescribed by the City. The City shall deposit in its CDBG program income account all program income funds remitted by the Agency or the Corporation and, subject to the Financing Documents and any security requirements in the HUD Documents, may use the funds for any CDBG eligible activity as provided in 24 CFR §570 504(b)(2)

(d) It is the Corporation's responsibility to obtain from the City Representative a prior determination as to whether or not income arising directly or indirectly from this Agreement, or the performance of any obligations under this Agreement, is program income. The City has final authority to make a determination as to whether such income is program income or not. The Agency and the Corporation are responsible to the City for the repayment of any and all amounts determined by the City to be program income, unless otherwise approved in writing by the City

(e) The Agency and the Corporation shall include this Section in its entirety in all of its subcontracts with HUD Subrecipients which involve other income producing services or activities

ARTICLE 9 CONDITIONS OF EACH ADVANCE OR LOAN; PROJECT COSTS; REPAYMENTS AND DEOBLIGATION OF FUNDS

Section 9.1 City Advances. Advances shall be disbursed, at the City's option, i) by depositing the amount into the Development and Revenue Account, as appropriate, ii) by direct or joint check payment to Persons entitled to payment for Property Acquisition, iii) by direct or joint check payment to Persons entitled to payment for work performed on or materials delivered to or services performed in connection with the construction of the Improvements, or iv) by any other method the City may from time to time elect. The Advances to which the Agency or the Corporation are entitled at any one time shall equal the amounts required by the Redevelopment Agreement, the Redevelopment Area Loan Documents or such other agreement. Under no circumstances shall any portion of an Advance be used for any purpose other than the

payment of those costs—and fees approved by the City as legitimately relating to the cost of Property Acquisition or the Redevelopment Area Loan, or for an amount in excess of the amount authorized to be paid the Agency or the Corporation in the Approved Capital Budget unless otherwise agreed to in writing by the City. For each Advance made to the Corporation for an amount authorized under the “Construction Hard Costs” line item designated on the Approved Capital Budget, the City shall retain a sum equal to 10% thereof (or a greater percentage, if permitted or required by any Legal Requirement) until a period of 31 days after Completion and delivery by the Agency or the Corporation, as appropriate, to the City of evidence reasonably acceptable to the City that the Agency or the Corporation has complied with Section 4.4(a)(13) of this Agreement. In addition to complying with the requirements of this ARTICLE 9, any Advance to the Corporation or any private developer shall also be made in accordance with the terms and conditions of the applicable Redevelopment Area Loan Documents.

Section 9.2 Redevelopment Area Loan Initial Advances. The City shall not be obligated to make an Advance to the Corporation or to any Person with respect to a Redevelopment Area Loan after the execution hereof unless

- (a) The City has received true, legible and correct copies of the following
 - (1) the Retail/Office/Mixed Use Plans or Plans pertaining to the initial Advance,
 - (2) the Development Contracts pertaining to the initial Advance,
 - (3) all authorizations and permits which are then procurable and required by any Legal Requirement for the construction and proposed use of the Improvements,
 - (4) an original current survey of the Property containing the certification of the surveyor in form and substance satisfactory to the City and showing the perimeter of the Property by courses and distances, all easements and rights-of-way, the boundary lines of the streets abutting the Property and the width thereof, any encroachments and the extent thereof in feet and inches, the relation of the proposed Improvements by distances to the perimeter of the Property and the proposed building lines, and, in general, comply with the requirements of a Texas Society of Professional Surveyors Category 1 Condition II survey,
 - (5) an Approved Capital Budget in form and substance approved in writing by the City,
 - (6) any other documents and information as the City may reasonably require,

(b) The Redevelopment Agreement, if applicable, Financing Documents have been duly authorized, executed and recorded or filed in accordance with applicable Legal Requirements and original counterparts thereof delivered to the City and, as appropriate, filed for record in the real property records of Travis County, Texas,

(c) The Title Company has issued the Title Insurance,

(d) A survey of the Retail/Office/Mixed Use Improvement as the City may require has been received by the City,

(e) An appraisal of the Property prepared by a Qualified Appraiser that estimates the value of the Property after construction equal to or greater than 125% of the Redevelopment Area Loan amount with respect to the Property, and

(f) The Corporation and the Architect, in connection with the construction of the Retail/Office/Mixed Use Improvement, have executed, or caused to be executed, and delivered to the City a Disbursement Request Form for such Advance

Section 9.3 Other Initial Advances and Subsequent Advances. The City shall not be obligated to make any initial Advance for other than a Redevelopment Area Loan or a subsequent Advance to the Agency, the Corporation or any Person unless

(a) The City has received duplicate originals of all applicable Development Contracts in the forms approved by the City,

(b) In the case of an Advance to reimburse expenditures for a Retail/Office/Mixed Use Improvement or the Improvements, the Corporation or any Person and the Architect, in connection with the construction of the Retail/Office/Mixed Use Improvement or the Improvements, have executed, or caused to be executed, and delivered to the City a Disbursement Request Form for such Advance,

(c) The City has received, with respect to the final Advance, in connection with the construction of the Retail/Office/Mixed Use Improvement or the Improvements, lien waivers or releases (in recordable form) from all contractors, subcontractors, laborers and materialmen employed or furnishing materials in connection with the construction of the Retail/Office/Mixed Use Improvement or the Improvements, and

(d) The City has received time sheets for any employees receiving payment under this Agreement which have been prepared and delivered to the City that detail the time charged against this Agreement in accordance with the Legal Requirements

Section 9.4 Any Advance Notwithstanding anything to the contrary contained in or inferable from any of the above, the City shall not be required to make any Advance hereunder if, at the time of the requested advance, any of the following exists

(a) An Event of Default, or

(b) The requested Advance, plus the sum of the previous Advances

(including retained amounts deemed to have been advanced pursuant to Section 2.2 of this Agreement) or other sums disbursed by the City under this Agreement or any Redevelopment Area Loan Documents, exceed the Available Amount, or

(c) The Agency, the Corporation or any Person is unable to satisfy all of the conditions set forth in Section 9.2, Section 9.3 or Section 9.6 of this Agreement, or

(d) An order or decree in any court of competent jurisdiction exists enjoining the Property Acquisition, the construction of the Retail/Office/Mixed Use Improvement or the Improvements or enjoining or prohibiting the Agency, the Corporation, any Person or the City or any of them from performing their respective obligations under this Agreement or any Redevelopment Area Loan Documents, or

(e) The City has not actually received adequate federal funds (solely from the HUD Guaranteed Loan Proceeds) to meet the City's liabilities under this Agreement or any Redevelopment Area Loan Documents. If adequate funds are not available to make payments under this Agreement, the City shall notify the Agency, the Corporation or any Person in writing within a reasonable time, not to exceed ten (10) calendar days, after such fact has been determined. The City may, at its option, either reduce the amount of its liability, as specified in Section 5.1 of this Agreement, or terminate this Agreement or any Redevelopment Area Loan Agreement. If HUD Guaranteed Loan Proceeds for use in carrying-out the purposes of this Agreement are not received by the City or are reduced, the City shall not be liable for further payments due to the Agency, the Corporation or any Person under this Agreement. It is expressly understood that this Agreement and any Redevelopment Area Loan Agreements, except with respect to the Contributed Property, in no way obligate the Agency, the City's General Fund or any other monies or credits of the City, or

(f) Any cost of the Project

- (1)** has been paid, reimbursed or is subject to payment or reimbursement, from any other source other than the Agency's own funds,
- (2)** was incurred prior to the beginning date or after the ending date specified in Section 2.1 of this Agreement, unless specifically authorized in writing by the City,
- (3)** is not incurred in strict accordance with the terms of this Agreement, including all exhibits attached hereto and the Legal Requirements,
- (4)** has not been billed to the City on or before the earlier of (a) sixty (60) calendar days following billing to the Agency or the Corporation, or (b) termination of this Agreement, or
- (5)** is not an allowable cost identified in OMB Circular A-87 or in Section 9.6 of this Agreement, or

(g) —Any cost or portion thereof which is incurred with respect to any activity of the Agency or the Corporation after the City has requested that the Agency or the Corporation furnish data concerning such action prior to proceeding further, unless and until the Agency or the Corporation is thereafter advised in writing by the City to proceed, or

(h) Payment to any party other than the Agency or the Corporation for any monies or for provision of any goods or services was previously made

Section 9.5 Method of Payment.

(a) Upon the City's acceptance of the Corporation's monthly Performance Report and Budgeted/Actual Variance Report as complete and satisfactory, the Corporation may submit a Disbursement Request Form for payment to City in accordance with the terms and conditions of the agreement allowing the payment and this Agreement. Further, upon receipt of invoices payable by the Agency, the City shall prepare a Disbursement Request Form on behalf of the Agency

(b) Each month the Corporation shall submit a Disbursement Request Form to the City that is postmarked no later than the fifteenth (15th) calendar day of the month. The Corporation shall include with the Disbursement Request Form

- (1) cash disbursements and receipts journals,
- (2) bank reconciliations for all bank accounts described in Section 8.1(b) of this Agreement,
- (3) invoices that support all expenditures, and
- (4) program income required to be remitted to the City pursuant to Section 8.5(b) of this Agreement

(c) The Corporation shall submit as part of each Disbursement Request Form, in the form required by the City, timesheets for any Corporation employee paid from an Advance, any affidavits of all bills paid or such other affidavits or reports as may be reasonably required by the City to document City's liabilities under this Agreement

(d) The City shall make payment to the Agency or the Corporation within a reasonable time, not to exceed thirty (30) calendar days, following receipt of a completed Disbursement Request Form, in an amount equal to City's liabilities which have not been previously billed to and subsequently paid by City, subject to deduction for any costs not allowable, provided it is complete and accompanied by documentation as required in this Agreement

Section 9.6 Allowable Costs

(a) Costs will be considered allowable only if incurred directly and specifically in the performance of and in compliance with this Agreement and in conformance with the standards and provisions of the Obligations and the Approved Capital Budget

(b) —Even if included in the Approved Capital Budget, the City's prior —
written authorization is required in order for the following to be considered allowable costs

- (1)** Encumbrance or expenditure during any one-month period which exceeds one-twelfth of any budgeted line item for personnel costs as specified in the budget,
- (2)** Any subcontract in an amount greater than \$5,000,
- (3)** Out of town travel, meals, and lodging,
- (4)** Alteration or relocation of the facilities on and in which the activities specified in the Obligations are conducted,
- (5)** Any alterations, deletions or additions to the Personnel Schedule incorporated in the budget,
- (6)** Costs or fees for temporary employees or services in an amount greater than \$1,000, or
- (7)** Any fees or payments for consultant services in an amount greater than \$5,000

(c) Requests for prior approval are the Agency's and Corporation's responsibility and should be made within sufficient time to permit a thorough review by the City. Written approval by the City must be obtained prior to the commencement of procedures to solicit or purchase services, equipment or real or personal property. Any procurement or purchase which may be approved under the terms of this Agreement must be conducted in its entirety in accordance with the provisions of this Agreement and its exhibits.

Section 9.7 **Excess Payments** The Agency or the Corporation shall refund to the City within ten (10) calendar days of the City's request, any sum of money which has been paid by the City and which the City at any time thereafter determines

- (a)** has resulted in overpayment to the Agency or the Corporation, or
- (b)** has not been spent strictly in accordance with the terms of this Agreement, or
- (c)** is not supported by adequate documentation to fully justify the expenditure

Section 9.8 **Disallowed Costs.**

(a) Should any expense or charge for which payment has been made be subsequently disallowed or disapproved as a result of any auditing or monitoring by the City or HUD, or any other state or federal agency, the Agency or the Corporation will refund such amount to the City within ten (10) calendar days of written notice to the Agency or the

Corporation specifying the amount disallowed

(b) Refunds of disallowed costs may not be made from these or any other funds received from or through the City

Section 9.9 De-obligation of Funds In the event that actual expenditure rates deviate from the Agency's or Corporation's provision of a corresponding level of performance, as specified in the Statement of Work, or the Approved Capital Budget, the City hereby reserves the right to reappropriate or recapture any such under-expended funds

ARTICLE 10 EVENTS OF DEFAULT

Each of the following, with respect to the party in default, shall constitute an Event of Default hereunder

Section 10.1 Conditions to Advances If, at any time, the Agency or the Corporation is unable to satisfy any requirement or cure any circumstance specified in ARTICLE 9 of this Agreement, the satisfaction or curing of which being precedent to its right to receive an Advance hereunder, and, with respect to a remedy allowed the City under Section 11 1 or Section 11 2 of this Agreement, such inability continues for a period in excess of thirty (30) calendar days

Section 10.2 Covenant Defaults If, at any time, the Agency or the Corporation is unable to satisfy any of its covenants or obligations or cure any circumstance specified in this Agreement the satisfaction or curing of which being precedent to its right to continue to satisfy any covenant hereunder, and, with respect to a remedy allowed the City under Section 11 1 or Section 11 2 of this Agreement, such inability continues for a period in excess of the cure period allowed under Section 11 1

Section 10.3 General Defaults If

(a) any representation or warranty made by the Corporation or the Agency herein or any statement or representations made by the Corporation or the Agency in any certificate, statement or opinion delivered to the City pursuant to this Agreement shall prove to have been incorrect as of the date made, or

(b) default shall be made in the timely and complete payment of any sum due hereunder, or

(c) any obligation of the Corporation (other than its obligations under this Agreement) shall be unpaid at its maturity or any such obligations shall become or be declared, pursuant to its terms, to be due and payable prior to express maturity thereof by reason of default or other violation of the terms thereof, or

(d) the Agency or the Corporation shall admit in writing its inability to pay its debts generally as they become due, make an assignment for the benefit of creditors, file a petition in bankruptcy, be adjudicated insolvent or bankrupt, petition or apply to any tribunal for the appointment of any receiver or trustee thereof or of any substantial part of its property or

commence any proceedings under any arrangement, readjustment of debt, or statute of any jurisdiction, whether now or hereafter in effect, or there is commenced against the Agency or the Corporation any such proceeding which remains undismissed for a period of thirty (30) calendar days, or

(e) the Agency or the Corporation by any act indicates its consent to, approval of or acquiescence in any proceeding or in the appointment of any receiver or of any trustee for the Agency or the Corporation with respect to a substantial part of its property, or

(f) any final judgment for the payment of money that is not fully covered by liability insurance and is in excess of \$10,000 00 shall be rendered against the Agency or the Corporation and not discharged within thirty (30) calendar days from the date of final disposition thereof including the exhaustion of all appellate rights, or

(g) the Agency or the Corporation during the term of this Agreement effects a change in ownership or control of the business or its assets, including the Property, related to this Agreement without prior written consent of City, or

(h) the Agency or the Corporation during the term of this Agreement effects a change in use of the Property, or

(i) the Property is not maintained in compliance with City's codes and ordinances for the term of this Agreement, or

(j) the Corporation takes or fails to take any action contained in this Agreement that results, or may result as determined by the City in its sole discretion, in a sanction being imposed upon the City as described in 24 CFR §§570 911, 570 912 or 570 913, as applicable, or

(k) the Corporation does not timely provide the data, material, audit or reports required by this Agreement or the HUD Documents, or

(l) the Corporation or a contractor of Corporation does not keep in full force and effect any insurance policies required by this Agreement, or

(m) the Corporation assigns or sells its interest or a partial interest in this Agreement to any party without the prior written consent of the City, or

(n) the Corporation secures with a Lien, pledges as collateral, assigns, transfers or attempts to secure, pledge, assign or transfer to another party, other than to a party identified in a Redevelopment Agreement, any Contributed Property or Property, without the prior written consent of the City

ARTICLE 11 REMEDIES

Section 11.1 Rights, Remedies and Recourses Upon the happening of any Event of Default which is not cured or corrected by the party in default within thirty (30) calendar days after notice of such default or breach is given to the party in default, provided, however, if the

party in default commences the process of curing such default and notifies City of such action within such thirty (30) calendar day period, or within any subsequent thirty (30) calendar day period, and proceeds diligently and continuously toward fully curing such default, the party in default will have an additional period, in increments of thirty (30) calendar days each, up to ninety (90) calendar days to fully cure such default, the City may, in its sole discretion, with respect to the party in default, in addition to any and all other rights, remedies and recourses available to it under any of the Redevelopment Area Loan Documents or otherwise available at law or in equity

- (a) take exclusive possession of the Mortgaged Property,
- (b) complete the Improvements and perform the Obligations,
- (c) make such changes in and revisions to the Retail/Office/Mixed Use Plans as the City deems desirable,
- (d) prosecute and defend all actions or proceedings relating to the construction of the Improvements,
- (e) pay, settle or compromise all existing bills and claims which are or may be Liens against the Mortgaged Property, or may be necessary or desirable for the completion of the Improvements or the clearance of title,
- (f) execute in the Agency or the Corporation's name all applications, certificates and other instruments which may be required by any Development Contracts,
- (g) do any and every act with respect to the construction of the Improvements which the Corporation may do in its behalf,
- (h) employ such contractors, subcontractors, agents, attorneys, architects, accountants, watchmen and inspectors as the City may deem desirable to accomplish any of the above purposes,
- (i) demand repayment of any amounts owed the City under this Agreement and the Agency or the Corporation shall remit such amount to the City within thirty (30) calendar days thereof,
- (j) cancel, suspend or terminate payment of any funds due the Agency or the Corporation under this Agreement,
- (k) cancel, suspend or terminate the right of the Agency or the Corporation to incur any additional obligations under this Agreement in whole or in part,
- (l) cancel, suspend or terminate the right of the Agency or the Corporation to continue any performance under this Agreement in whole or in part,
- (m) cancel, suspend or terminate this Agreement in whole or part,

- (n) initiate legal action and foreclose under any deed of trust,
- (o) initiate legal action to enforce any restrictive covenant running with the land on any Property, and
- (p) pursue such other measures as may be lawful, including suing for specific performance, for the recovery of damages and for the release or return of all or part of the funds committed herein

For these purposes, the Corporation constitutes and appoints the City its true and lawful attorney-in-fact with full power of substitution to take any and all of the above-described action, which power of attorney is coupled with an interest and is irrevocable. All sums expended by the City for any of the above purposes shall be Advances and shall be secured by this Agreement.

Section 11.2 The Corporation's Indemnity. So long as this Agreement is in effect, the Corporation, to the extent allowed by law, shall indemnify and hold the Indemnified Party harmless from and against all liability, loss, cost, damage or expense which the Indemnified Party may incur under or by reason of this agreement, or for any action taken by the Indemnified Party hereunder, or by reason of or in defense of all claims and demands whatsoever which may be asserted against the Indemnified Party arising out of this Agreement, including those arising from the joint, concurrent, or comparative negligence of the Indemnified Party, but excluding all liabilities arising from the Indemnified Party's sole or gross negligence or willful misconduct. If the Indemnified Party incurs any such liability, loss, cost, damage or expense, the amount thereof together with all reasonable attorneys' fees and interest thereon shall be payable by the Corporation to the Indemnified Party within three (3) business days, without demand.

Section 11.3 Additional Right to Suspend Upon the happening of any Event of Default, the City may, with respect to the party in default, in addition to the remedies described in Section 11.1 and Section 11.2 of this Agreement and any and all other rights, remedies and recourses available to it under any of the Redevelopment Area Loan Documents or otherwise available at law or in equity, at any time, and without any notice:

- (a) suspend payment of any funds due the Agency or the Corporation under this Agreement,
- (b) suspend the right of the Agency or the Corporation to incur any additional obligations under this Agreement in whole or part, or
- (c) suspend the right of the Agency or the Corporation to continue any performance under this Agreement in whole or part

Section 11.4 Federal Suspension or Termination Upon the happening of any Event of Default, the City may, with respect to the party in default, in addition to the remedies described in Section 11.1 and Section 11.2 of this Agreement and any and all other rights, remedies and recourse available to it under any of the Redevelopment Area Loan Documents or otherwise available at law or in equity, suspend or terminate this Agreement in accordance with 24 CFR §85.43 or 24 CFR §85.44.

ARTICLE 12 GENERAL TERMS AND PROVISIONS

Section 12.1 No Waiver. Any failure by the City to insist, or any election by the City not to insist, upon the Agency or the Corporation's strict performance of any of the terms, provisions or conditions of the Financing Documents shall not be deemed to be a waiver of them or of any other term, provision or condition thereof, and the City may at any time thereafter insist upon strict performance by the Agency or the Corporation of all of them. In specific, no Advance by the City absent the Agency or the Corporation's strict compliance with ARTICLE 2 of this Agreement shall in any way preclude the City from thereafter declaring such failure to comply to be an Event of Default hereunder.

Section 12.2 Modification This Agreement may not be amended, waived, discharged or terminated orally, but only by an instrument executed by the party against which enforcement of the amendment, waiver, discharge or termination is sought.

Section 12.3 Indemnification of Agency All officials of the Agency are protected from liability from damages resulting from errors, omissions or negligent acts committed in the performance of their duties under the terms and conditions of this Agreement as authorized by and in accordance with the City indemnification resolution adopted on 9 April 1989.

Section 12.4 Applicable Law This Agreement has been executed under, and shall be construed and enforced in accordance with, the laws of the State of Texas from time to time in effect except to the extent preempted by United States federal law, and venue for any dispute arising hereunder shall be exclusively in the State courts of Travis County, Texas.

Section 12.5 Severability If any provision of this Agreement or the application thereof to any Person or circumstance is, for any reason and to any extent, invalid or unenforceable, then neither the application of such provision to any other Person or circumstance nor the remainder of the instrument in which such provision is contained shall be affected thereby, but shall be enforced to the greatest extent permitted by law.

Section 12.6 Interpretation of Inconsistent Documents In the event of conflict between the terms and conditions of this Agreement, and those of the respective Statement of Work, Redevelopment Area Loan Guidelines, and Property Acquisition/Disposition Plan, the terms and conditions of this Agreement, then the Statement of Work, then the Redevelopment Area Loan Guidelines, and then the Property Acquisition/Disposition Plan shall govern.

Section 12.7 Successors and Assigns This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, legal representatives and assigns, however, no assignment or transfer of the rights or obligations of this Agreement to any party by the Agency or the Corporation shall be valid unless the City shall agree in writing to any assignment or transfer. This Agreement may be assigned or transferred by the City to HUD without notice or written consent by the Agency or the Corporation.

Section 12.8 Force Majeure. In the event the Corporation shall be delayed, hindered, or prevented from the performance of any act required under this Agreement, and provides written notification of the delayed performance to the City and the Agency within thirty

(30) calendar days following the delay, by reason of act of God, act of common enemy, fire, storm, flood, explosion or other casualty, strike, lockouts, labor disputes, labor troubles, inability to procure materials, failure of power, riots, insurrection, war, injunction, order of any court of governmental authority, or the failure of the City or the Agency to timely respond to matters necessary for the Corporation to complete any required performance under the Agreement, then the performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay

Section 12.9 Notices All notices or other communications required or permitted to be given pursuant to the provisions of this Agreement shall be in writing and shall be considered as properly given if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, or by delivering same in person to the intended addressee, or by prepaid telegram, telex or telecopy. Notice so mailed shall be effective upon its deposit in the custody of the U S Postal Service. Notice given in any other manner shall be effective only if and when received by the addressee. For purposes of notice, the addresses of the parties shall be as set forth in the execution provisions of this Agreement, however, any party may change its address for notice hereunder to any other location within the continental United States by giving 30-days' prior notice to the other parties in the manner set forth hereinabove.

Section 12.10 Headings The Article and Section entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such Articles and Sections.

EXECUTED as of the date first above written

CITY OF AUSTIN

By _____
Name Toby Hammett Futrell
Title City Manager

Notice Address: City of Austin
Neighborhood Housing and Community Development Office
Attn: Community Development Officer
1000 East Eleventh Street – Suite 200
P O Box 1088 (78767)
Austin, Travis County, Texas 78702

URBAN RENEWAL AGENCY OF THE CITY OF AUSTIN

By _____
Name Kevin Cole
Title Chairman, Board of Commissioners

Notice Address: Urban Renewal Agency of the City of Austin
Attn Commission Chair
c/o City of Austin
1000 East Eleventh Street – Suite 200
P O Box 1088 (78767)
Austin, Travis County, Texas 78702

AUSTIN REVITALIZATION AUTHORITY

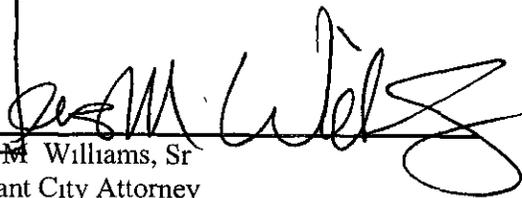
By _____
Name Dr Charles Urdy
Title Chairman

Notice Address. Austin Revitalization Authority
Attn President and CEO
1105 Navasota Street
Austin, Travis County, Texas 78702

PREPARED IN THE LAW OFFICE OF.

City of Austin
Law Department

APPROVED AS TO FORM



James M. Williams, Sr.
Assistant City Attorney
Texas State Bar Number 21549500

26836 restated development agreement doc

Attachments:

- Exhibit A** - Approved Capital Budget
- Exhibit B** - INTENTIONALLY DELETED
- Exhibit C** - Legal Description of Contributed Property
- Exhibit D** - Insurance Requirements
- Exhibit E** - Property Acquisition/Disposition Plan
- Exhibit F** - Redevelopment Area
- Exhibit G** - Redevelopment Area Loan Guidelines
- Exhibit H** - Statement of Work

APPROVED CAPITAL BUDGET

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The Approved Capital Budget for the Urban Renewal Project of this Agreement is a multi-year budget, with amounts allocated as set forth below

For the period 14 November 2007 through 30 September 2010

Budget Line Item		Budget Amount
Redevelopment Area Loans for Retail/Office/Mixed Use Improvement	\$	400,000 00
Redevelopment Area Loans for Improvements	\$	418,100 00
TOTAL CAPITAL BUDGET	\$	818,100 00

EXHIBIT B --

[Intentionally Deleted]

Legal Description of Contributed Property

The property (including any improvements) referred to in this agreement is described as follows

Tract 1 - 02080618090000

1106 East 11th Street

South 104 5' of East 56' of Lot 61, George L Robertson's subdivision, of Outlot 55, Division B, City of Austin, Travis County, Texas

Tract 2 – 02080618080000

1112 East 11th Street

The South 104 5', of Lot 50, George L Robertson's subdivision, of Outlot 55, Division B, City of Austin, Travis County, Texas

Tract 3 – 02080618070000

1114 East 11th Street

The South 105 27' AV of West 44 88' AV, Lot 59, George L Robertson's subdivision, of Outlot 55, Division B, City of Austin, Travis County, Texas

Tract 4 - 02050711140000

1205 East 11th Street

Part of Lot 12, Block 4, Stuart and Mair Subdivision of Outlot 4, Division B, an addition in Travis County, Texas, according to the map or plat thereof recorded in Plat W, Page 230, Plat Records of Travis County, Texas, and being the same property described in deed recorded in Volume 9631, Page 20 Real Property Records, Travis County, Texas

Tract 5 - 02080616150000

903 Juniper Street

Being the Northwest one-quarter (1/4) of Lot 2, of the George L Robertson Subdivision of Outlot 55, Division B, a subdivision in Travis County, Texas, according to the Map or Plat thereof recorded in Volume Z, Page 599, Plat Records of Travis County, Texas

Tract 6 - 02080617140000

1007 Juniper Street

Lot 6B, Resubdivision of the central portion of Lot 6, George L Robertson Subdivision of Outlot 55, Division B, a subdivision in Travis County, Texas, according to the Map or Plat thereof recorded in Volume 21, Page 7, Plat Records of Travis County, Texas, and being further described in Volume 1641, Page 1399, Real Property Records, Travis County, Texas

Tract 7 - 02080617050000

1013 Juniper Street

Parcel 1 All that certain tract or parcel of land in Travis County, Texas, said tract being out of and a Part of Lots 21 and 22 of George L Robertson Subdivision of Outlot 55, Division B, City of Austin, according to the map or plat thereof recorded in Volume Z, Page 599, Deed Records of Travis County, Texas, same being – (1) all of the North 80 feet of the East 2 67 feet, more or less, of Lot 21, and the North 80 feet, more or less, of Lot 22 being the same property conveyed to Jake Silberstein by deed recorded in Volume 434, Page 3185, Deed Records of Travis County, Texas, and (2) the North 25 feet, more or less, of that tract described as the East 55 feet of the South 129 feet of Lot 22, said 55 feet by 120 feet tract being the same land conveyed to Jake Silberstein by deed recorded in Volume 1152, Page 396, Deed Records of Travis County, Texas

Parcel 2 The North one-half (N ½), more or less, of Lot 23, George L Robertson Subdivision of Outlot 55, Division B, City of Austin, Travis County, Texas, according to the map or plat thereof recorded in Volume Z, page 599, Deed Records of Travis County, Texas being the North one-half (N ½) of Lot 23 as conveyed to Jake Silberstein by deed recorded in Volume 399, Page 425, Deed Records of Travis County, Texas

Tract 8 - 02080618020000

1103 Juniper Street

The North 104 5' of Lot 61, George L Robertson's Subdivision of Outlot 55, Division "B", City of Austin, Travis County, Texas

Tract 9 - 02080618030000

1105 Juniper Street

The Northwest one-quarter (NW ¼), more or less, of Lot 60, George L. Robertson Subdivision of Outlot 55, Division B, City of Austin, Travis County, Texas, according to the map or plat thereof recorded in Volume Z, page 599, Deed Records of Travis County, Texas, being the same property described in deed recorded in Volume 1653, Page 214, Deed Records of Travis County, Texas, and being further described in Volume 11806, Page 1310, Real Property Records, Travis County, Texas

Tract 10 - 02080618040000

1107 Juniper Street

The Northeast one-quarter (NE ¼), more or less, of Lot 60, George L. Robertson Subdivision of Outlot 55, Division B, City of Austin, Travis County, Texas, according to the map or plat thereof recorded in Volume Z, page 599, Deed Records of Travis County, Texas, being the same property described in deed recorded in Volume 3832, Page 545, Deed Records of Travis County, Texas, and being further described in Volume 11837, Page 2048, Real Property Records, Travis County, Texas

Tract 11- 02080619090000 - Sold June 11, 2007

1157 Lydia Street

Lot 2, The Herman Schieffer re-subdivision of Lot 54, 55, and 56, in the Subdivision of Outlot 55, Division "B", a Subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Book 3, Page 120, Plat Records, Travis County, Texas, and being further described in Volume 11610, Page 753, Real Property Records, Travis County, Texas

Tract 12- 02080619100000 – Sold June 11, 2007

1159 Lydia Street

Lot 1, The Herman Schieffer re-subdivision of Lot 54, 55, and 56, in the Subdivision of Outlot 55, Division "B", a Subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Book 3, Page 120, Plat Records, Travis County, Texas, and being further described in Volume 11612, Page 1065, Real Property Records, Travis County, Texas

Tract 13- 02080619020000 – Sold June 11, 2007

1104 Navasota Street

Lot 9, The Herman Schieffer re-subdivision of Lot 54, 55, and 56, of George L. Robertson Subdivision of Outlot 55, Division B, City of Austin, Travis County, Texas, according to the map or plat thereof recorded in Volume 3, Page 120, Plat Records of Travis County, Texas

Tract 14- 0208061801000 -- Sold June 11, 2007

1159 Waller Street

The North 104 5' of Lot 62, less north west George L Robertson's Subdivision of Outlot 55, Division "B", City of Austin, Travis County, Texas

Insurance Requirements

Agreement Acquisition, Development and Loan Agreement

Date 1 October 2004

Parties City of Austin (City), Urban Renewal Agency of the City of Austin (Agency), and Austin Revitalization Authority (Corporation)

1 Agency and Corporation shall carry insurance in the following types and amounts for the duration of the Agreement. Any exceptions to the requirements set forth in this exhibit (the "Insurance Requirements") must be approved by the City's Risk Management Division. Agency and Corporation shall furnish Certificates of Insurance, along with copies of policy declaration pages and all policy endorsements as evidence thereof to City, in the following types and amounts for the duration of the Agreement:

a If Corporation's employees are working on City, Agency or Corporation owned or leased property, the Corporation shall carry Employers Liability and Workers' Compensation Insurance with Statutory Workers' Compensation and Employers Liability coverage with minimum policy limits for Employers' Liability of \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee shall be provided. The policy shall contain the following endorsements in favor of the City:

- i Waiver of Subrogation (Form WC 420304), and
- ii 30-Day Notice of Cancellation (Form WC 420601)

b Commercial General Liability Coverage with a minimum bodily injury and property damage per occurrence limit of \$500,000 for coverages A & B. The policy shall contain the following provisions:

- i Blanket Contractual liability coverage for liability assumed under this contract,
- ii Products and completed operations coverage,
- iii Independent contractors coverage,
- iv Personal and Advertising injury coverage,
- v Additional Insured endorsement in favor of the City (Form CG 2010),
- vi Waiver of Subrogation endorsement in favor of the City (Form CG 2404), and
- vii 30-Day Notice of Cancellation endorsement in favor of the City (Form CG

0205)

c Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a limit of \$500,000 per occurrence for bodily injury and property damage liability. The policy shall contain the following endorsements in favor of the City:

- i Additional Insured endorsement (Form TE 9901B),
- ii Waiver of Subrogation endorsement (Form TE 2046A), and
- iii 30-Day Notice of Cancellation endorsement (Form TE 0202A)

d All risk property coverage including but not limited to fire, wind, hail, theft, vandalism, and malicious mischief for all real and personal property owned and/or acquired by Agency and Corporation for the Agreement. The coverage shall be at replacement cost with a 100% coinsurance clause. The City shall be a mortgage/loss payee on the policy. As Their Interest May Appear.

e Directors and Officers Insurance with a minimum of not less than \$250,000 per claim shall be in place for protection from claims arising out of negligent acts, errors or omissions for directors and officers while acting in their capacities as such. If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of the Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The coverage shall be continuous for the duration of the Agreement and for not less than twenty-four (24) months following the end of the Agreement. Coverage, including renewals, shall have the same retroactive date as the original policy applicable to the Agreement. The Agency and the Corporation shall, on at least an annual basis, provide the City with a certificate of insurance as evidence of such insurance.

- 2 If the insurance policies are written for less than the amount specified in section 1 above, Agency and Corporation shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.
- 3 Agency and Corporation shall provide City at least thirty (30) calendar days written notice of erosion of the aggregate limit below the minimum required combined single limit of coverage.
- 4 Agency and Corporation shall not commence work under the Agreement until it has obtained all required insurance and until such insurance coverage has been reviewed by the Purchasing Office of the City.
- 5 City prefers that the required insurance be written by a company licensed to do business in the State of Texas at the time the policy is issued. In any event, the company must be rated by A M Best at B+ VII or better and reasonably acceptable to City.

6 All endorsements, naming the City as additional insured, waivers, notices of cancellation, notices of non-renewal or any other endorsements as well as the Certificate of Insurance shall

a Name the City at the following address

City of Austin
Neighborhood Housing and Community Development Office
Attn: Community Development Officer
1000 East Eleventh Street – Suite 200
PO Box 1088 (78767)
Austin, Travis County, Texas 78702

b Obligate the insurance company to notify in writing the City at its notice address of any non-renewal, cancellation or material change to the policy, at least thirty (30) calendar days before the change or cancellation

7 The "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in the Agreement, covering both City, Agency and Corporation, shall be considered primary coverage as applicable

8 Agency and Corporation shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Agreement or the twenty-four month period following completion, in the case of a claims-made policy

9 City reserves the right to review these Insurance Requirements during the effective period of the Agreement and to make reasonable adjustments to insurance coverages, and their limits, when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company, as well as that of Agency and Corporation

10 City shall be entitled, upon request, and without expense to City, to receive copies of the requisite insurance policies and all endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions (Except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies)

11 Actual losses, deductibles and self-insured retentions stated in policies, if any, which are not covered by insurance as required by these Insurance Requirements, are not allowable costs under the Agreement

EXHIBIT E

PROPERTY ACQUISITION/DISPOSITION PLAN

Under the Restated Acquisition, Development and Loan Agreement (the "Agreement"), cooperative redevelopment initiatives (including procedures for each Project Acquisition and Disposition Plan) of the City and the Corporation and acquisition by the City on behalf of the Agency will address physical and economic blight, impaired private market and development activity, and environmental, economic, and social distress. The location of anticipated acquisition sites corresponds to the Redevelopment Area and as described in each Project Acquisition and Disposition Plan.

I Criteria for Acquisition

Property acquisition within the Redevelopment Area will be undertaken on a contingent basis, depending upon the specific circumstances of current ownership, site uses, and the ability of property owners to conform to the Urban Renewal Plan and its redevelopment controls. Property acquisition will be selectively conducted within the Redevelopment Area based on each Project Acquisition and Disposition Plan described herein and the following criteria. These criteria focus on eliminating and preventing blighting conditions:

- 1 Sites occupied by abandoned, "Dilapidated" structures, often tax delinquent, which are unsafe and detrimental to the surrounding environment
- 2 Vacant and/or under-used sites which reflect patterns of impaired development, economic disinvestment and/or detrimental site uses. Sites classified as vacant and/or under-used include those with vacant structures or without any permanent building improvements, site uses for open storage or other non-intensive development inconsistent with East Austin's central urban location
- 3 Properties required to effectuate critically needed public buildings, parks, plazas, and traffic/pedestrian circulation and infrastructure improvements
- 4 Non-intensively developed, obsolescent, or underutilized commercial/industrial sites which contribute to traffic, land use, and environmental impacts on residential areas and which offer logical opportunities for conversion to more appropriate uses
- 5 Sites and structures of significant historical, cultural, or architectural distinction which reflect conditions of physical deterioration, vacancy or under-utilization, and/or inappropriate uses, i.e., conditions which can be remedied through high-priority preservation and adaptive re-use action programs

- 6 "Substandard" or "Deteriorated" residential structures which are capable of cost-effective rehabilitation through acquisition and reinvestment by alternative owners. The objective will be to remedy associated problems of vacant or crime-infested rental units and/or property tax delinquency while providing expanded home ownership opportunities or better managed rental housing. With regard to this criterion, additional public acquisition site designations will be made following internal code inspections of existing housing structures.

II Guidelines for Acquisition

Acquisition and redevelopment of the identified project areas will require strategies involving complementary roles and initiatives on the part of the community, the Corporation, the City, the Agency, and the private sector. As a matter of policy, this Property Acquisition/Disposition Plan calls for a business-like containment of local government costs and risks associated with front-end property acquisition and initiation of project development. Increased participation by current property owners, community-based organizations, private investors, and business operators during the initial stages of redevelopment, can provide a greater economic stake and social responsibility for redevelopment outcomes. At the same time, the front-end costs of redevelopment, to be financed by government will be reduced along with fewer short-term losses of tax revenues during acquisition, relocation, and site preparation phases.

This Property Acquisition/Disposition Plan recognizes the City's authority to control future site re-uses and design qualities within targeted redevelopment sites as outlined in this plan and each Project Acquisition and Disposition Plan (as described in section V of this Property Acquisition/Disposition Plan). This plan also calls for the City on behalf of and with the approval of the Agency to act as the land acquisition and disposition agent for the Agency.

Three alternative levels for public acquisition and redevelopment intervention by the City on behalf of the Agency - all based on the Agency's eminent domain power- are proposed and will be determined on a site-by-site basis.

- 1 **Tier I sites** These sites represent the most direct and highest priority public acquisition and redevelopment initiatives including properties required to effectuate public or area-wide improvements, properties with severe structural deficiencies (i.e., unsafe), or properties impinging upon larger-scale development.
- 2 **Tier II sites** These will be identified where private acquisition and currently planned private improvements may be assisted by the City in accordance with the Redevelopment Area Loan Program Guidelines. Private redevelopment teams in these areas may include current property owners, the Corporation, community-based institutions, and both existing and new business operators.

- 3 **Tier III sites** These sites are where public intervention will occur as a tool of last resort for enforcing corrective actions pertaining to code violations, tax delinquency, or nonconforming/conflicting land uses with the Urban Renewal Plan

This Property Acquisition/Disposition Plan is intended to provide the community, the Agency, the City and the Corporation ample latitude for defining the operative policies and procedural guidelines under which public acquisitions for Tiers I through III will occur. Before acquiring any parcel, the City on behalf of the Agency will obtain an appraisal of the parcel's market value, as determined by Qualified Appraisers. The City on behalf of the Agency will seek to acquire the parcel through negotiation, but, if necessary, the parcel can be acquired by the Agency, if approved by the Agency, through the Agency's power of eminent domain (the City will provide legal representation to the Agency in any eminent domain action). Current property owners will be allowed to develop or conform properties consistent with the UR Plan and its project controls within a reasonable time period not to exceed five years.

III UR Plan Property Disposition & Re-Use

Each Project Acquisition and Disposition Plan identifies project-specific site and building re-use objectives and other controls. The disposition of publicly acquired property and the allocation of contractual redevelopment rights is subject to provisions of the Texas Urban Renewal Law, Chapter 374, Texas Local Government Code. The Property Acquisition/Disposition Map (Figure 4-27 of the UR Plan) correlates generic disposition policies and procedures as defined in this section with specific redevelopment project areas (Figures 4-5 through 4-26 of the UR Plan). Each redevelopment project area contains specific property re-use objectives and controls that will serve as the basis for all property dispositions. Policy and procedural guidelines for property disposition and controls will be administered by the City on behalf of the Agency with the advice and consent of the Agency. The property disposition/re-use process is the key mechanism in the overall redevelopment plan for effecting desirable land use changes, preserving and adaptively reusing historic structures, providing open space and other public amenities, delivering economic opportunity and housing benefits for the community, capturing fiscal benefits for taxpayers, and assuring design excellence in all rehabilitation and construction activity.

The scope of land assemblages and magnitudes of new construction and rehabilitation to be undertaken in these projects vary widely and are generally summarized in Table 4-1 of the UR Plan. These factors as well as current economic conditions and market demands will be taken into consideration in scheduling announcements of different project opportunities/priorities, as well as specific designations of contractual project development rights and performance requirements for private redevelopment teams. All proposed re-uses must be regarded as preferred re-uses, though specific programmatic variations may be approved by the Agency during review of each submission of a Project Acquisition and Disposition Plan in accordance with the procedures described in section V of this Property Acquisition/Disposition Plan.

In addition to these site-specific re-use objectives, all projects will be subject to relevant City zoning provisions as modified in conformance with the UR Plan

IV Disposition Policies and Incentives

The property disposition policy endorses community redevelopment practices, which are based on public and private co-investment and risk-sharing transactions, offering high probability of equitable returns for all parties. Two fundamental principles will guide public resource commitments: *leveraging* of private investment and *recoverability* of invested public resources. In return for commitments of public resources—such as exclusive contractual land development rights, project financing assistance, zoning concessions, or supportive public improvements—projects must generally show ratios of public-private investment dollar leveraging in the range of 1:1 to 1:5, along with contributions toward tangible fiscal, economic, and social benefits for the general public and East Austin community interests.

The following property disposition policies and private redevelopment incentives are intended to balance the respective interests of local taxpayers, Central East Austin citizens, private investors, developers, and current property owners:

1. **Emphasis on property tax base gains/long-term revenue pay-backs** Emphasis is placed on expanding the taxable private property base through conversion of non-taxable property, where appropriate, as well as through transfer of fee simple title (rather than use of long-term ground leases) to publicly acquired property. Wherever possible, common open spaces of limited size, off-street parking facilities, or other facilities for community use will be accomplished within privately owned and maintained properties. Review and approval of project plans must emphasize long-term fiscal returns.
2. **Full property acquisition cost recovery and recycling of funds** The City on behalf of the Agency, with the advice and consent of the Agency as specified in a Redevelopment Agreement, will seek to recover the full public acquisition cost of sites and/or buildings for private re-use, including costs of appraisals, title certificates, property surveys, and closing fees. Sale prices and cost reimbursements will be based on fair market value of the real property for private re-uses in accordance with provisions of the UR Plan and all relevant project controls and covenants. The full property acquisition cost recovery policy is intended to provide public land sale revenues that can be recycled for other public investment initiatives within Redevelopment Area and repayment of the City's obligations under the HUD Guaranteed loan financing the projects.
3. **Uniform support of relocation activity for private and public redevelopment sites** Given the important Tier II land assembly and redevelopment role assigned to the private sector, the cost reduction incentive of public relocation assistance will be equally available to all acquisition/disposition sites as needed. A uniform standard of residential and business

relocation benefits and services within the Redevelopment Area is an essential means of providing equitable treatment of impacted residents and businesses

- 4 **Coordinated timing and support of public improvements and common facilities** The coordinated timing and funding support for streets/walks improvements, landscaped open space, off street parking, and other common facility improvements, will enhance the marketability and financing of private projects
- 5 **Economic development financing incentives** Most projects in the Redevelopment Area will be eligible for economic development financing assistance. Proactive efforts will be made to marshal economic development financing resources including tax-exempt and redevelopment bond financing. Economic development assistance will emphasize recoverable second mortgage loans and loan guarantees. Such financing will be highly leveraged against equity and first mortgage financing from private sources. Specific amounts and types of assistance will be tailored to site-specific occupancy and marketing objectives, as well as to project cost and risk conditions.
- 6 **Fee waivers for economic development projects** Where appropriate, and subject to City Council approval, waivers of governmental development fees for economic development projects (e.g., S M A R T Housing™ initiative, etc.) will be used to encourage quality development and maximize participation of community interests.
- 7 **Private redevelopment obligations for affordable housing and business facilities** All projects receiving redevelopment assistance may be obligated to set aside facilities to meet affordable housing, other residential or business replacement needs. Such obligations will be determined by negotiations and agreement with the City on behalf of and with the advice and consent of the Agency, based on practical circumstances of project size, uses, locations, and construction phasing and evidence of solicited support and input from the registered neighborhood organizations and neighborhood planning team, both recognized by the City, in the Urban Renewal Plan area and any subsequent responses from those organizations.
- 8 **Community-based employment and business participation obligations** Any publicly assisted redevelopment projects may be obligated to meet objectives relating to community-based residents employment and small business participation opportunities. These objectives will be determined on a project-specific basis through the project review process and negotiations between the City, on behalf of and with the advice and consent of the Agency, and the redeveloper for appropriate types of incentives and obligations.
- 9 **Deed-restricted covenants to protect public and community benefits** Restrictive covenants running with the land will be employed to guarantee the continuity of general public and community benefits of redevelopment projects, i.e., notwithstanding potential re-financing or ownership changes of assisted projects. Tier I and Tier II acquisition/disposition projects

will be protected, where and as appropriate, with permanent easements for public access, open space, and landscaping, future site and building space use control, historic preservation mechanisms, and other relevant major design controls such as building height, footprint, setbacks, and materials/colors affecting appearance

V Procedure to Approve or Deny each Phase of a Project Acquisition and Disposition Plan

Except for a project selected in accordance with Section 6.1(b) of the Agreement, the following procedures will be used to approve each Project Acquisition and Disposition Plan. Typically the Corporation will be primarily responsible to submit a Project Acquisition and Disposition Plan for review and approval by the Agency Board of Commissioners. The Corporation must submit each Project Acquisition and Disposition Plan it prepares to the City and Agency in two phases.

The Corporation shall be solely responsible for payment of all costs and expenses associated with the preparation of any Project Acquisition and Disposition Plan and related Phase One and Phase Two submissions. Thus, prior to the Agency's transfer of Property to the Corporation in connection with an approved Phase Two, the Corporation shall not create or place, permit to be created or placed or, through any act or failure to act, acquiesce in the creation or placing of, or allow to remain, any Lien on any Property (or any portion thereof) owned by the Agency other than Liens created by or expressly permitted under any applicable Financing Documents, regardless of whether it is expressly subordinate to the Liens created in the Financing Documents. If any such Lien is asserted against Property (or any portion thereof) owned by the Agency, the Corporation shall promptly give the City and the Agency notice thereof. The notice shall specify who is asserting such Lien and shall detail the origin and nature of the underlying claim giving rise to the asserted Lien. The Corporation agrees to indemnify the Agency and the City for the full amount of any such Lien, and for all costs and attorneys fees expended by the Agency or City to obtain a release of any such Lien. The Corporation shall place the following paragraph in any contract for services that it enters with any consultant, subcontractor, material provider, or supplier:

DISCLAIMER

Austin Revitalization Authority is not the owner of the Property, or the agent for the owner of property, Contractor and any and all subcontractors and suppliers shall not have any right or ability to place a lien on the Property for any reason, including any mechanic and material men's liens.

Except for any Block 18 Tract submission, upon prior written notice to the Corporation, the City Representative and the Agency's Board of Commissioners may require that the Corporation submit a Project Acquisition and Disposition Plan and a Phase One to the City Representative and obtain the Agency's Board of Commissioner approval by a date specified in the notice. The specified date shall be no less than one hundred eighty (180) calendar days. Absent any such written notice to the Corporation, the Corporation may submit a Project Acquisition and Disposition Plan and a Phase One for review to the City Representative at any time.

The Agency may approve a Phase One conditioned upon proposed modifications to the Urban Renewal Plan Recommendations by the Corporation to the City's governing body related to all proposed modifications to the Urban Renewal Plan identified in a Phase One shall be forwarded to the City's governing body within ninety (90) calendar days of the Agency's conditional approval of the Phase One. In the event that the City's governing body denies a proposed modification to the Urban Renewal Plan identified in a Phase One approved by the Agency, then the Agency's conditional approval of the Phase One immediately becomes null and void without any further action by the Agency.

Phase One and Phase Two of each Project Acquisition and Disposition Plan, prepared by the Corporation, shall include the information described in sections V 1 or V 2, as appropriate, of this Property Acquisition/Disposition Plan.

No later than fifty-five (55) calendar days prior to the Agency regularly scheduled meeting date at which the Corporation desires any Phase One or Phase Two Acquisition and Disposition Plan be approved, the Corporation must request and attend a mandatory pre-submission conference with the City Representative to present the proposed submission material for a Phase One or Phase Two plan approval. The pre-submission conference and any follow-up letter from the City Representative will serve as notice to the Corporation of items required for submission of a completed Phase One or Phase Two proposal which must be submitted by the deadline.

The Agency and City Representative must receive a complete submission no later than forty (40) calendar days prior to the Agency's regularly scheduled meeting date at which the Corporation desires the a plan submission it considers to be complete be reviewed for approval, provided the Corporation's submission for review was timely filed in compliance with the deadline set by the Agency and the City Representative, if any. Following receipt of each phase of each Project Acquisition and Disposition Plan, the City will review each plan submission for compliance with Section V 1 or V 2, as appropriate. The City Representative will return an incomplete submission to the Corporation outlining in writing all deficiencies and requiring a complete submission (or formal withdrawal of the deficient submission) within thirty (30) calendar days of the Corporation's receipt of the notice of deficiencies. If the Corporation considers a plan submission complete regardless of the deficiencies identified by the City Representative, the Corporation may present the submitted application to the Agency's Board of Commissioners to appeal the City Representative's determination that the application is not complete. The Agency's Board of Commissioners review and determination of the appeal is final. The City Representative must provide the Corporation and the Agency's Board of Commissioners with written notice of its intent to recommend approval or denial of a submission to the Agency no later than ten (10) calendar days prior to the scheduled meeting date at which the Agency's Board of Commissioners will review the submission for approval.

The Agency's Board of Commissioners shall approve each phase of a Project Acquisition and Disposition Plan submitted by the Corporation which substantially complies with sections V 1 or V 2 herein, as appropriate. If the Agency's Board of Commissioners approve a Phase One of a Project

Acquisition and Disposition Plan, the acquisition or disposition phase of the project, as appropriate, will begin as described in the plan after all proposed modifications to the Urban Renewal Plan identified in the approved Phase One have been approved by the City's governing body and all other necessary requirements are completed. If the Agency Board of Commissioners approves a Phase Two of a Project Acquisition and Disposition Plan, the Agency's transfer of property and the Corporation's redevelopment phase of the project will begin as described in the plan. If the Agency's Board of Commissioners denies a Phase Two of a Project Acquisition and Disposition Plan, the Agency's prior approval of any related Phase One is voided. The Agency may seek either a new Phase One consistent with the Project Acquisition and Disposition Plan, or any revisions thereto recommended by the City Representative, or authorize a solicitation for development by a private developer in accordance with Section 6.1(b) of the Agreement.

1. PHASE ONE REQUIREMENTS For each proposed Project Acquisition and Disposition Plan the elements described below must be submitted to the City and Agency. These requirements will become the basis for the Agency Board of Commissioners, based on the recommendation from the City, to determine whether a proposed project shall begin, subject to approval of the second phase of the process described in section V.2 below. Any Phase One Project Acquisition and Disposition Plan approved by the Agency will include a deadline in the approving resolution for submission of a completed Phase Two Project Acquisition and Disposition Plan application in a form that is acceptable to the City and Agency. The Corporation must submit to the City and Agency, no later than forty (40) calendar days prior to the Agency regularly scheduled meeting date at which the Corporation desires the Phase One plan be reviewed for approval, the following completed information:

- A. **Proposed Tract Acquisition** An Acquisition Tract Information Sheet for each specific tract in each proposed Phase One Project Acquisition and Disposition Plan which must be acquired by the Agency under the proposed project, in sufficient detail to inform the City and the Agency of the proposed acquisition, including, without limitation:
1. Current owner(s) of each specified tract,
 2. Person(s) representing the owner in the transaction,
 3. Disclosure of any City, Agency or Corporation (including any individual board member) Substantial Interest or a Substantial Interest in Real Property as required by the Agreement,
 4. Tier type level (ie, I, II, or III),
 5. Size, current zoning, condition of improvements, current use,
 6. Conceptual site plan, including building space uses, site and building design,
 7. Any marketing studies supporting the demand for the project,
 8. Special program needs (e.g., accommodation of persons or businesses relocating, etc.),
 9. Project compliance with zoning and other redevelopment plan controls,
 10. Private equity and loan requirements and steps to achieve firm commitments,
 11. Requirements for public financing and other supportive actions and justification for

- supplementary public acquisition of property (i.e., in a Tier II area),
- 12 General principles for the legal transfer of any publicly acquired property,
- 13 Travis Central Appraisal District value of land and improvements and current tax status, and
- 14 Photos of property

B **Proposed Project** A description of the proposed project that will be constructed on the property planned for acquisition for each proposed Phase One Project Acquisition and Disposition Plan. Although the details of the plan may not be well defined, sufficient planning must go into the project proposal to inform the City and the Agency of the proposed project, including, without limitation

- 1 Overview of planned project and proposed uses,
- 2 Principals proposing an ownership interest in the project (or copy of request for proposal to select Redevelopment Team),
- 3 For each proposed ownership interest entity and the principals of each entity, provide a complete financial pro forma that includes credit worthiness, financial capability to complete the tract acquisition and redevelopment when viewed in conjunction with other obligations and tract acquisitions, debt and debt service obligations, any financial institution loan application and financial forms submitted to the institution, a current income statement, a financial statement, and any other documents necessary, as required by the City, to prove financial capability to complete the tract acquisition and redevelopment of the project,
- 4 Redevelopment Team (if known) for the project,
- 5 Describe how the project originated and how the selection of the project was made,
- 6 Describe how the redeveloper of project was selected,
- 7 If a joint venture, describe the structure of the ownership and contributions to the joint venture,
- 8 Describe the redeveloper's experience in similar projects, including reference contact information,
- 9 Describe any demolition and/or historical preservation required and a plan, including the proposed funding source and proposed time schedule, to complete the work,
- 10 Disclosure of any City, Agency or Corporation (including any individual board member) Substantial Interest in the project as required by the Agreement,
- 11 Preliminary site plan of the project showing the proposed uses and a schemata of the proposed plan in relation to the properties proposed for acquisition,
- 12 Total square footage, building heights, and floor-to-area ratio calculation for each use in the project,
- 13 Total parking spaces proposed and number of spaces required by the City,
- 14 Any zoning changes required to construct the project,
- 15 A proposed date for submission of the Phase Two Requirements, including a timeline that identifies completion of key elements which generally will not exceed

ten (10) months approval unless the need for additional time can be demonstrated (in the case of a request for a Phase One conditioned on a Urban Renewal Plan modification, ten months from the plan modification approval date),

- 16 Any necessary proposed waivers from or modifications to the Urban Renewal Plan that may be requested,
- 17 Preliminary financing structure, including sources and uses of funding financial proforma for the project (including owner equity, and public and private sources),
- 18 Proposed business types anticipated to occupy lease space in the project,
- 19 Estimate number of jobs that will be created and/or retained,
- 20 Evidence of Corporation's authority to submit the Phase Two application, and
- 21 Estimated number of residential housing units that will be affordable for household having combined income at or below 60% and at or below 80% of the Austin-Round Rock, TX MSA median family income, adjusted for family size, and

- C **Assurances to Agency and City** The following instruments for each proposed Phase One Project Acquisition and Disposition Plan that is approved by the Agency must be submitted to the City Representative within one-hundred twenty (120) calendar days of the approval (or such greater period allowed by the Agency) to authorize start of any required property acquisition and to secure performance of the project

Once the Agency finally acquires all Property necessary to implement the approved Project Acquisition and Disposition Plan, the Agency and the Corporation will enter into a property acquisition agreement acceptable to the City to sell the Corporation all acquired Property necessary to complete the proposed Phase One Project Acquisition and Disposition Plan. The Corporation or redeveloper, as appropriate, will then be able to proceed with applications for zoning permits, firm private lender commitments, applications for affordable housing or economic development financing assistance from appropriate agencies, and other types of project support

- 2 **PHASE TWO REQUIREMENTS** For each Phase One Project Acquisition and Disposition Plan approved by the Agency, the following elements will be prepared by the Corporation in a form and in sufficient detail that is acceptable to the City Representative and the Agency before transfer of the property or redevelopment of the proposed project. These requirements will become the basis for the Agency's Board of Commissioners, based on a recommendation from the City Representative, to determine whether a proposed Phase Two Project Acquisition and Disposition Plan shall be finally approved and implemented. Any Phase Two Project Acquisition and Disposition Plan approved by the Agency will include deadlines for completion of the Project which will be included in the Redevelopment Agreement. The Corporation must submit to the City Representative and the Agency, no later than forty (40) calendar days prior to the Agency regularly scheduled meeting date at which the Corporation desires the Phase Two plan be reviewed for approval, the following completed information

- ==
- ==
- A **Tract Acquisition** Any revisions or deviations from the Phase One Proposed Tract Acquisition Plan
- B **Final Project Proposal** Final project plan proposal, well defined and detailed, including, without limitation
- 1 Any revisions or deviations from the Phase One Proposed Project Plan,
 - 2 *Final financing structure, including sources and uses of funding financial pro-forma* (including at a minimum, income and cash flow proforma) for the project (including owner equity, and public and private sources),
 - 3 Evidence of proper zoning and compliance with all regulatory bodies with respect to the project,
 - 4 Proposed site plan of the project submitted for approval to the City's Watershed Protection and Development Review Department, or successor department,
 - 5 Evidence of submission of a request for site plan approval from the City's Watershed Protection and Development Review Department, or successor department, and the staff reviewer's report with respect to the submission,
 - 6 Preliminary construction plans and specifications, including elevations, and any other professional studies which may be required to demonstrate the economic and technical feasibility of proposed construction and marketing plans,
 - 7 A proposed date for the transfer of the property and a construction project schedule, *including a timeline that identifies completion of key elements,*
 - 8 For SMART Housing projects, evidence of City approval of project,
 - 9 Texas State Historical Preservation Office approval, if required,
 - 10 Evidence of any support (a minimum of two letters of support must be included) or other comments from neighborhood organizations and neighbors adjacent to the proposed development presented at any board or Council hearing or meeting with respect to the proposed development,
 - 11 Phase One Environmental Assessment,
 - 12 Evidence of firm financing commitment and term sheet from private lending institution(s) providing financing for the project,
 - 13 Evidence of City financing commitment, if any,
 - 14 Evidence of Corporation's authority to submit the Phase Two application, and
 - 15 Redeveloper Team, including all subcontractors, MBE/WBE participation, and procurement documentation
- C **Redeveloper qualification and designation** Designation of a qualified redeveloper will be accomplished through competitive proposals in accordance with the Agency's Developer Selection Process and Criteria Matrix by URA Resolution No 2004-0224-01 on 24 February 2004 (the "Criteria Matrix") With the advice and consent of the Agency, the Corporation will advertise and solicit competitive proposals from potential

redevelopers Solicitation of proposals will clearly define property characteristics, project re-use objectives, essential team composition and qualifications, criteria and schedules for selection, all proposed subcontractors, MBE/WBE participation, and proposal submittal requirements Simple submittal requirements will emphasize documentation of organizational experience and capabilities, available and committed professional personnel, financial assets and project management strengths, statements of redevelopment program objectives, and proposed project planning process and schedule

The Corporation may also require bidding document fees and good faith/refundable deposits with submitted proposals

The most qualified and responsive redeveloper will be selected in accordance with the Criteria Matrix

- D **Final Assurances to Agency and City** Each redeveloper included in a proposed Phase Two Project Acquisition and Disposition Plan that is approved by the Agency must execute the binding land disposition and development restrictive covenant executed by the Corporation in such form as is acceptable to the City and the Agency within sixty (60) calendar days following the later of (a) the Phase Two Project Acquisition and Disposition Plan approval by the Agency, or (b) approval of the site plan by the City's Watershed Protection and Development Review Department, or successor department This date may be extended by the Agency on a showing of necessity by the Corporation
- E **Pre-construction implementation** The City will monitor and provide coordination of all private and public commitments to enable a timely construction start The Corporation and redeveloper will deliver the final construction documents phase products for City design compliance review and endorsement of the applications for building permits and other fees and licenses The City, with the advice and consent of the Agency, will carry out all relocation, site preparation and other pre-construction activities on behalf of the Agency Failure of the Corporation or redeveloper to complete construction planning, financing, and other obligations on a timely basis, may offer cause for the City or the Agency to find the Corporation and redeveloper in default, terminate contractual development rights, and enforce the regulatory provisions in the Redevelopment Agreement or the Financing Documents
- F **Property transfer, construction and implementation monitoring** Title to publicly assembled properties should be transferred to the Corporation, and subsequent transfer to the redeveloper, prior to construction, contingent upon satisfaction of all pre-construction commitments and within the time limits allowed by the Agency by resolution Depending upon the economic and social benefits of the project and other merits, the City Representative and the Agency's Board of Commissioners may offer further extensions of time

A simple disposition protocol may be established by the City Representative and the Agency's Board of Commissioners for transfers of land for public/institutional re-uses. Throughout the construction period and after permanent financing has been closed, the City on behalf of the Agency will continue to monitor the performance of public and private obligations under each Redevelopment Agreement.

Dated Effective 14 November 2007

amd 1_da_acquisition plan.doc

**Redevelopment Area
In Austin, Travis County, Texas**

The legal description of the Redevelopment Area referred to in this instrument is described as follows (and is generally identified on the Map attached as Exhibit F-3 to this instrument)

Tract One The property described on the attached Exhibit "F-1" to this instrument and by this reference incorporated in it, and

Tract Two The property described on the attached Exhibit "F-2" to this instrument and by this reference incorporated in it

Exhibit F-1

LEGAL DESCRIPTION

LEGAL DESCRIPTION FOR A TRACT OF LAND
SITUATED IN OUTLOTS 2, 3, 4 & 55, DIVISION B
OF THE GOVERNMENT OUTLOTS ADJOINING THE
ORIGINAL CITY OF AUSTIN ON FILE IN GENERAL
LAND OFFICE OF THE STATE OF TEXAS, SAID TRACT
OF LAND BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS

BEGINNING at the intersection of the south right-of-way line
Juniper Street with the east right-of-way line of Branch Street,
which point of beginning is the northwest corner of the herein
described tract of land,

THENCE, with the south right-of-way line of said Juniper
Street in an easterly direction, crossing Curve Street, Waller
Street and Lydia Street, to the most northerly northeast corner of
the herein described tract of land, same being a point in the west
right-of-way line of Navasota Street,

THENCE, with the west right-of-way line of said Navasota
Street in a southerly direction to the most easterly corner of
Sigmor Subdivision, a subdivision of record in Book 66 at Page 30
of the Plat Records of Travis County, Texas, same being a point in
the north right-of-way line of Rosewood Avenue,

THENCE, with a line perpendicular to the south right-of-way
line of said East 11th Street in a southerly direction to a point
in the south right-of-way line of said East 11th Street,

THENCE, with the south right-of-way line of said East 11th
Street in an easterly direction to the most easterly northeast
corner of the herein described tract of land, same being a point in
the west right-of-way line of said Navasota Street,

THENCE, with the west right-of-way line of said Navasota
Street in a southerly direction to the southeast corner of the
herein described tract of land, same being a point in the north
right-of-way line of the East 11th Street Alley,

THENCE, with the north right-of-way line of said East 11th Street Alley in a westerly direction to a point in the east right-of-way line of Wheelless Street,

THENCE, in a westerly direction to the southeast corner of Lot 15, Stuart and Mairs Subdivision of record Volume W at Page 230 of the Real Property Records of Travis County, Texas, same being a point in the west right-of-way line of said Wheelless Street,

THENCE, with the south line of said Lot 15 in a westerly direction to the southwest corner of said Lot 15, same being a point in the east right-of-way line of Lydia Street,

THENCE, in a westerly direction to the intersection of the north right-of-way line of East 11th Street Alley with the west right-of-way line of said Lydia Street,

THENCE, with the north right-of-way line of said East 11th Street Alley in a westerly direction to the most southerly southwest corner of the herein described tract of land, same being a point in the east right-of-way line of San Marcos Street,

THENCE, with the east right-of-way line of said San Marcos Street, and its northerly prolongation, in a northerly direction to a point in the north right-of-way line of the aforesaid East 11th Street,

THENCE, with the north right-of-way line of said East 11th Street in a westerly direction to the most westerly southwest corner of the herein described tract of land, same being the intersection of the east right-of-way line of the aforesaid Branch Street with the north right-of-way line of East 11th Street,

THENCE, with the east right-of-way line of said Branch Street in a northerly direction to the point of beginning

LEGAL DESCRIPTION Al Martinez

APPROVED 01-06-99

Ansel Gary Glover, RPLS NO 4783
Engineering Support Section
Infrastructure Support Services

City of Austin

REFERENCES

TCAD 2 0605 2 0507 & 2 0806
Austin Grid J & K-22

East 12th Street Community
Redevelopment Plan

Exhibit F-2

LEGAL DESCRIPTION

LEGAL DESCRIPTION FOR A TRACT OF LAND
SITUATED IN OUTLOTS 34, 36, 38, 41, 55, 56,
57, & 58, DIVISION B OF THE GOVERNMENT OUTLOTS
ADJOINING THE ORIGINAL CITY OF AUSTIN ON FILE
IN GENERAL LAND OFFICE OF THE STATE OF TEXAS,
SAID TRACT OF LAND BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS

BEGINNING at the intersection of the east right-of-way line of Interstate 35 with the south right-of-way line of the East 13th Street Alley, and which point of beginning is the northwest corner of the herein described tract of land,

THENCE, with the south right-of-way line of East 13th Street Alley in an easterly direction to the east right-of-way line of Leona Street,

THENCE, with the east right-of-way line said Leona Street in a northerly direction to the northwest corner of that certain tract of land conveyed to Elee Houston by warranty deed of record in Volume 1869 at Page 490 of the Real Property Records of Travis County, Texas,

THENCE, with the north line of said Houston tract of land in an easterly direction to the northeast corner of said Houston tract of land, same being the northwest corner of that certain tract of land conveyed to Mount Carmel Grand Lodge by warranty deed of record in Volume 1869 at Page 214 of the Real Property Records of Travis County, Texas,

THENCE, with the north line of said Mount Carmel Grand Lodge tract of land in an easterly direction to the northeast corner of said Mount Carmel Grand Lodge tract of land, same being the northwest corner of that certain tract of land conveyed to Ray D Ates by warranty deed of record in Volume 12602 at Page 1344 of the Real Property Records of Travis County, Texas,

THENCE, with the north line of said Ates tract of land in an easterly direction to a point in west right-of-way line of Salina Street,

THENCE, with the west right-of-way line of Salina Street in a southerly direction to a point in the westerly prolongation of the south right-of-way line of said East 13th Street Alley,

THENCE, with the south right-of-way line of said East 13th Street Alley, and its westerly prolongation, in an easterly direction to the northeast corner of the herein described tract of land, same being a point in the west right-of-way line of Poquito Street,

THENCE, with the west right-of-way line of said Poquito Street in a southerly direction, crossing East 12th Street, to the southeast corner of the herein described tract of land, same being a point in the north right-of-way line of the East 12th Street Alley,

THENCE, with the north right-of-way line East 12th Street Alley in a westerly direction, crossing Chicon Street, Leona Street and Comal Street, to a point in the east line of Alice T King Subdivision a subdivision of record in Book 49 at Page 68 of the Plat Records Travis County, Texas,

THENCE, with the east and south lines of said Alice T King Subdivision, in a southerly and westerly directions to a point in the east right-of-way line of San Bernard Street,

THENCE, with the east right-of-way line of said San Bernard Street in a northerly direction to a point in the easterly prolongation of the north line of that certain tract of land conveyed to Willis E Adams, et al by warranty deed of record in Volume 12480 at Page 1215 of the Real Property Records of Travis County, Texas,

THENCE, with the north line of said Adams tract of land and

its easterly prolongation in a westerly direction to the a point in the east line of a certain tract of land conveyed to Dan E Niendorff, et al, by warranty deed of record in Volume 12746 at Page 2072 of the Real Property Records of Travis County, Texas,

THENCE, with the east, south and west lines of said Niendorff tract of land, in a southerly, westerly and northerly directions to the southeast corner of that certain tract of land conveyed to Anderson Community Development Corporation by warranty deed of record in Volume 12912 at Page 1053 of the Real Property Records of Travis County, Texas,

THENCE, with the south line of said Anderson Community Development Corporation tract of land, as described in said Volume 12912 at Page 1053, in a westerly direction to the east right-of-way line of Navasota Street,

THENCE, with the east right-of-way line of said Navasota Street, in a northerly direction to a point in the easterly prolongation of the north line of that certain tract of land conveyed to Anderson Community Development Corporation by warranty deed of record in Volume 13070 at Page 1733 of the Real Property Records of Travis County, Texas,

THENCE, with the north line of said Anderson Community Development Corporation tract of land, and its easterly prolongation, as described in Volume 13070 at Page 1733, in a westerly direction to the northwest corner of said Anderson Community Development Corporation tract of land, same being a point in the east right-of-way line of Waller Street,

THENCE, departing from with the east right-of-way line of said Waller Street in a westerly direction to the northeast corner of Lot 7, Resubdivision of the Southerly Part of Lots 15,16,32,33 & 34, George L Robertson Subdivision of Outlot 55, Division B, City of Austin, a subdivision of record in Book 101 at Page 250 of the Plat Records of Travis County, Texas,

THENCE, with the north line of said Resubdivision of the Southerly Part of Lots 15,16,32,33 & 34, George L Robertson Subdivision of Outlot 55, Division B, City of Austin, in a westerly direction to the northwest corner of Lot 1, in said Resubdivision of the Southerly Part of Lots 15,16,32,33 & 34, George L Robertson Subdivision of Outlot 55, Division B, City of Austin, same being a point in the east right-of-way line of Curve Street,

THENCE, departing from the east right-of-way line of said Curve Street in a westerly direction to the southeast corner of that certain tract of land conveyed to Mildred Medearis, et al by deed of record in Volume 12233 at Page 289 of the Plat Records of Travis County, Texas, same being a point in the west right-of-way line of said Curve Street,

THENCE, with the south line of said Medearis tract of land in a westerly direction to a point in a line fifty (50 00) feet east of parallel with the west line of Lot 17, George L Robertson Subdivision of Outlot 55, Division B, of record in Volume Z at Page 599 of the Real Property Records of Travis County, Texas,

THENCE, with a line fifty (50 00) east of parallel with the west line of said Lot 17 in a southerly direction to a point in the north right-of-way line of Catalpa Street,

THENCE, with the north right-of-way line of said Catalpa Street in a westerly direction to the southwest corner of said Lot 17,

THENCE, with the west line of said Lot 17 in a northerly direction to the southeast corner of that certain tract of land conveyed to Deborah Attal by deed of record in Volume 10442 at Page 695 of the Real Property Records of Travis County, Texas,

THENCE, with the south line of said Attal tract of land in a westerly direction to the southwest corner of said Attal tract of land, same being the southeast corner of that certain tract of land conveyed to Agustine Garza III of record in Volume 8927 at Page 692 of the Real Property Records of Travis County, Texas, same being a point in the common line of said Lot 18 & Lot 19, in said George L Robertson Subdivision of Outlot 55, Division B, City of Austin,

THENCE, with the south line of said Garza tract of land in westerly direction to the southwest corner of said Garza tract of land, same being the southeast corner of that certain tract of land Jean Daniels by deed of record in Volume 5381 at Page 1831 of the Real Property Records of Travis County, Texas,

THENCE, with the south and west lines of said Daniels tract of land in westerly direction to the southeast corner of that certain tract of land conveyed to Anderson Community Development Corporation by deed of record in Volume 12877 at Page 669 of the Real Property Records of Travis County, Texas,

THENCE, with the south line of said Anderson Community Development Corporation tract of land as described in said Volume 12877 at Page 669 in a westerly direction to the west right-of-way line Branch Street,

THENCE, with the east right-of way line of said Branch Street and its northerly prolongation to the north right-of-way line East 12th Street,

THENCE, with the north right-of-way line of said East 12th street in a westerly direction to a point in the east right-of-way line of Interstate Highway 35,

THENCE, with the east right-of-way of said Interstate Highway 35 in a northerly direction to the point of beginning

LEGAL DESCRIPTION Al Martinez

APPROVED 01-04-99

Ansel Gary Glover, RPLS NO 4783
Engineering Support Section
Infrastructure Support Services
City of Austin

REFERENCES

TCAD 2 0806, 2 0708 & 2 0809
Austin Grid K 22 & 23

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East 11th and 12th Streets Redevelopment

-  Completed Affordable Housing
-  Planned Affordable Housing
-  Planned Live/Work Lofts
-  Completed Mixed Use/Office
-  Planned Mixed Use/Office
-  ARA Owned Properties
-  Community Parking
-  Planned Community Parking
-  Structure
-  Historical Structure
-  Redevelopment Area
-  Urban Renewal Owned Properties



Prepared by the City of Austin
Neighborhood Housing and
Community Development Office
09-26-07

REDEVELOPMENT AREA LOAN
PROGRAM GUIDELINES
(Amended effective September 26, 2007)

I General Provisions

A Definitions

- 1 “**Acquisition, Development and Loan Agreement**” means the agreement entered into effective 1 October 2004, as amended, among the City of Austin, the Urban Renewal Agency of the City of Austin, and the Corporation
- 2 “**Applicant Match**” means the sum of any equity amounts provided by the Applicant and any loan or grant amounts provided by private, commercial, governmental or third party entities
- 3 “**Applicant**” or “**Applicants**” means any individual person, private for-profit partnerships or corporations, nonsectarian, nonprofit organizations, neighborhood-based development corporations, community based development corporations, and combinations thereof, including limited partnerships, partnerships or joint ventures
- 4 “**Corporation**” means the Austin Revitalization Authority
- 5 “**Developer**” means one who builds on land or changes and enhances the use of an existing building for some new purpose or to better effect. In addition, the developer will not operate business activities and headquarter operations at the building or land location being enhanced or acquired
- 6 “**East 11th and 12th Streets Urban Renewal Plan**” means the plan adopted by the City of Austin on January 14, 1999, pursuant to §374.014(d), Local Government Code, as amended
- 7 “**Eligible Borrower**” means an Applicant approved by NHCD to participate in the Program
- 8 “**Eligible Costs**” means the cost which can be paid for with the Redevelopment Area Loan Program funds made available under the Acquisition, Development and Loan Agreement. Eligible costs are limited to verifiable land acquisition expenses, hard construction costs and reasonable construction related fees. Costs encumbered prior to closing on a Redevelopment Area Loan Program loan are not eligible costs
- 9 “**GAP Financing**” means the portion of funds supplied by Redevelopment Area

Loan Program funds that allows a business to remain, expand or relocate existing operations to or within the Redevelopment Area that would not take place without this financial assistance

- 10 **“HUD”** means the United States Department of Housing and Urban Development
- 11 **“Job Created”** means a permanent position of employment offered by the Applicant that was not in existence prior to receipt of a Redevelopment Area Loan and represents a new budgeted position that the Applicant commits in writing to employ within a defined time period
- 12 **“Job Retained”** means a permanent position of employment with the Applicant that is in existence prior to receipt of a Redevelopment Area Loan which would otherwise be lost if the financial assistance from Redevelopment Area Loan funds was not provided. The Applicant applying for the Redevelopment Area Loan funds must prove to the satisfaction of the Loan Committee that these funds are necessary
- 13 **“Loan Committee”** means a four (4) member committee made up of members appointed by the City Manager. Each member shall serve for a one year term, for up to a total of three years. The Loan Committee is responsible for reviewing all applications and recommending projects for approval to the Community Development Officer, Neighborhood Housing & Community Development Office
- 14 **“Loan Documents”** means the note, loan agreement, guaranty agreement or agreements, deed of trust, job creation/retention agreement, subordination agreement, and such other documents or certifications as may be required by the City and in such form as is acceptable to the City
- 15 **“Low- and moderate-income persons”** means a family or household whose gross household income does not exceed 80% of HUD’s median family income of the current federal income guidelines for Austin – Round Rock, TX MSA
- 16 **“Private Investment”** means conventional private sector mortgage, purchase money mortgages, IRB’s, leases equal to the life of the loan or in proportions thereof, SBA 503, 504 and SBA 7(a) Guaranteed Loan Programs or similarly guaranteed loan programs, equity investment to remain in the project throughout life of the program loan
- 17 **“Program”** means the Redevelopment Area Loan Program
- 18 **“Program Guidelines”** means these Redevelopment Area Loan Program Guidelines
- 19 **“Project”** means a proposed retail, office or mixed use development that may include residential uses, for which the Applicant is requesting GAP Financing

20 “**Public investment**” means direct loans or grants made by federal, state or local agencies, including the City, for Eligible Costs

21 “**Redevelopment Area**” means the area described in the East 11th and 12th Streets Urban Renewal Plan

22 “**Small Business**” means a small or minority owned business with a net worth less than \$6 million dollars and/or two-year average annual gross income for the immediately preceding fiscal year less than \$10 million dollars

23 “**Total Project Debt**” means the total of the Public Investment by the City plus all other Public Investment other than from the City and the Private Investment with equal or higher lien priority

B Administration

1 The City of Austin (**City**) through its Neighborhood Housing and Community Development Office (NHCD) is responsible for the administration of the Program and Program Guidelines in the Redevelopment Area. In that capacity, the City shall perform the following duties:

- a Establish, and maintain, a Loan Committee so long as loan funds are available
- b Market the program and receive applications from interested Applicants,
- c Analyze application information submitted by interested parties for compliance with the Program Guidelines and negotiate with the Applicant,
- d Recommend Applicant(s) for Loans to the Loan Committee, and
- e Submit all Loan requests reviewed by the Loan Committee to the City, along with the request and Loan Committee recommended action

C Purpose

The Program is designed to create or retain jobs for low- and moderate-income persons. The Program provides financial assistance to owners of commercial properties involving rehabilitation or new construction of commercial property that will provide employment opportunities for low- and moderate-income families or that will eliminate slum and blight conditions in the Redevelopment Area.

D Program Goal

The Program is designed to eliminate the slum and blighted conditions in the Redevelopment Area through the combined action of private enterprise, municipal regulation, and other public action through the East 11th and 12th Street Urban Renewal

Plan The Program will improve the quantity and quality of commercial developments available in the Redevelopment Area through

- a The preservation of existing good commercial structures, including basic repair, weatherization, rehabilitation, historic preservation and conversion to more functional units,
- b The construction of new commercial structures,
- c The creation of new goods and services available to the community,
- d The development of a viable commercial corridor east of IH 35 in the Redevelopment Area to serve the surrounding neighborhoods,
- e Improving the image of the commercial district in the eyes of neighborhood residents and the community at large,
- f Stimulating private investment within the commercial district through property improvement, business development and expansion,
- g Creating and/or retaining jobs, primarily for low- and moderate-income persons, and
- h Leveraging of other private resources and public programs (various state and federal housing and community development programs) in meeting the City's revitalization goals

II Eligibility Requirements

A Participants

The Program is available for Applicants seeking financial assistance for commercial developments in the Redevelopment Area

B Projects - General

Project eligibility is determined both by program goals and by the sources of funding for the Program. Funds used in the program are derived from federal HUD Guaranteed Section 108 Loan Program funds borrowed by the City and are subject to the federal regulations of this program. Mandated regulations of other federal, state, and local programs may also apply. All Projects must comply with the Legal Requirements, the General Funding Criteria and the Underwriting Criteria of these Guidelines

C Compliance with Legal Requirements

All applicable rehabilitation and new construction activities undertaken for a Project shall be in compliance with and maintain appropriate documentation for all federal, state, and local laws, regulations and authorities and any changes in applicable laws, regulations, or

authorities are automatically incorporated herein without specific reference. Without limiting the foregoing, the Applicant must comply with the following federal laws and regulations and local requirements

- 1 Davis-Bacon Act – Requires that laborers working on federally-assisted projects will be paid not less than once a week at computed wage rates not less than the prevailing wages as provided by the U S Department of Labor. Borrower shall specifically ensure compliance with the following federal labor standards documentation
 - a approval of all subcontractors
 - b all applicable Section 3, Affirmative Action Plans and EEO certifications
 - c weekly payrolls
 - d employee interviews
 - e inclusion of appropriate wage scales
 - f posted Davis-Bacon Wage and EEO information at the work site
- 2 Copeland Anti-Kickback Act – Prohibits payroll deductions from the wages of employees covered by the Davis-Bacon Act
- 3 Contract Work Hours & Safety Standards Act – Sets the basis and conditions for work hours and overtime pay
- 4 National Environment Policy Act – Prohibits federal assistance for projects which will adversely affect the environment
- 5 National Historic Preservation Act – Provides for the protection of certain historic-designated sites. Certain rehabilitation standards apply in historic preservation designated areas
- 6 Title VI of the 1964 Civil Rights Act – Prohibits discrimination in employment based on race, color, religion, national origin or sex
- 7 Title VIII of the 1968 Civil Rights Act – Prohibits discrimination in housing based on race, color, religion, national origin or sex
- 8 Architectural Barriers Act of 1968 – Requires dwellings rehabilitated under federally assisted programs shall be made accessible in conformance with the Architectural Barriers Act and related legislation
- 9 Section 504 of the Rehabilitation Act of 1973 -- Prohibits discrimination on the basis of disability in federally assisted programs and activities
- 10 Lead-Based Paint Poisoning Prevention Act – Prohibits the use of lead-based paint in rehabilitation and requires that existing lead-based paint be removed or adequately covered
- 11 Executive Orders Nos. 11625, 12432, 12138 – The use of minority and women's

business enterprises in connection with federally assisted projects

- 12 Flood Disaster Protection Act of 1973 Requires that acquisition or construction purposes in identified special flood hazard areas shall be subject to the mandatory purchase of flood insurance requirements of section 102 (a) of this Act
- 13 Title 24, Subpart M of the Code of Federal Regulations Sets forth the HUD regulatory requirements of the HUD Guaranteed Section 108 Loan Program Assistance may be given for rehabilitation and new construction of commercial developments under the requirements set forth in these Guidelines
- 14 All applicable zoning regulations
- 15 Adherence to all required building codes and acquisition of all required building permits

D General Funding Criteria

1 Amount of financing Loans up to 40 percent of total project cost or a maximum of \$250,000 which ever is the lesser as determined by program staff and/or the Loan Committee (minimum \$15,000) For the Corporation only, loans up to 100 percent of eligible project costs may be considered not to exceed the loan maximum of \$250,000

2 Type of financing GAP & Primary financing

- a Gap financing is a percentage of the overall project costs as determined by the program guidelines, program staff and Loan Committee
- b Primary financing is available up to \$200,000 for real estate transactions that are secured by real estate under a deed of trust and the City of Austin must be the first lien holder

3 Demonstrated need for financing City assistance must be demonstrated to be necessary for the project based on

- a Inability of the Applicant to obtain private financing irrespective of the fact that the Project is economically feasible, or
- b Inability of a Project financed in part with conventional financing rates and terms to be economically feasible

4 Eligible use of assistance The project must include a fixed asset(s) whose useful

life equals or exceeds five (5) years. The City reserves the right to make any final determination of eligible uses of assistance. Eligible uses of the assistance may include the following:

- a Acquisition of land and improvements
 - b Construction of new improvements
 - c Acquisition of real property. If the property is sold within five (5) years of the loan, twenty percent of the difference between the net sales proceeds and the acquisition cost (plus improvements) will be returned to the City.
 - d Leasehold improvements up to \$100,000. For new developments, the Applicant's finish-out expenditures must include an Applicant Match equal to the amount of loan proceeds. For existing structures, the Applicant must provide an Applicant Match equal to 25% of the loan amount through any one or combination of reduced, deferred, or abated rents, security deposits, triple nets, additional rents, and/or rental insurance. Tenant finish-out allowances are preferred in all cases.
 - e Reimbursement of moving expenses, only if necessary for the completion of the project, not to exceed 5% total approved loan amount.
 - f Acquisition of machinery and equipment necessary for the operation of the business.
 - g Reimbursement of development fees, as determined by the Department, that do not exceed 5% of the total approved loan amount.
 - h Reimbursement of reasonable professional fees, including surveying, appraisal, engineering, Architectural, Legal, Accounting, and closing costs, not to exceed 5% of the approved loan amount.
 - i Reimbursement of insurance costs associated with insurance requirements stipulated under the loan or security agreement. This does not include reimbursement of insurance costs or requirements requested or outlined by borrower or any third party.
 - j A contingency fund of 10% of the loan amount is allowed and may be requested at the time of application for any eligible expenses that are documented and verifiable cost overruns.
- Please Note:** The combined total of all eligible reimbursable expenses may not exceed 25% the total loan amount.

5 Ineligible use of assistance

The City reserves the right to make any final determination of ineligible uses of assistance. The City is under no obligation to fund any proposed activity should it determine that the activity does not meet the intent or purpose of Program. Ineligible uses of assistance may include, but not be limited to the following:

- 1 Start-up Businesses (less than two years in business)
- 2 Organizations/Individuals in or under any chapter of bankruptcy. Must be four (4) years removed from a discharged bankruptcy having reestablished a business which meets all eligibility criteria without necessity of waivers.
- 3 Financing of speculative projects (signed/executed leases, purchase or

sell contracts to include, but not limited to real estate, furniture, fixtures or equipment, contractor and sub contractor, and third party lender agreements are required)

- 4 Trucks, vans, and automobiles
- 5 Incorporation and organizational expenses
- 6 Finder's fee for financing
- 7 Commitment fees on the first mortgage
- 8 Application fees
- 9 Working capital
- 10 Inventory
- 11 Refinancing
- 12 Any and all types of real estate sales commission fees

6 Title Applicants must have ownership rights in the project site pursuant to fee simple title, a land contract, an option to purchase or purchase contract with a term or right to extend the term for a minimum of 120 calendar days from the application date

7 Borrower Any legal borrowing entity with two years of operating experience, including

- a Sole proprietorships
- b Partnerships
- c Corporations
- d Developers
- e Non-Profit Corporations

8 Term of loan The earlier of 15 years, the term of any superior liens or the remaining economic life of the asset(s) being financed

9 Rate of interest Ranges from 5 to 8 percent based on use of funds, loan amount, credit score, and term of loan

10 Credit Minimum score of 620-850 If credit score is less than 620, a co-applicant with a credit score equal to or greater than 620 will be needed The applicant and co-applicant credit scores must average above 620

11 Collateral Primarily business assets, combinations of guarantees and other negotiable assets as deemed appropriate by program staff and the Loan Committee are considered on a case-by case- basis, if needed in order to secure the loan (Additional collateral may be required)

12 Guarantees Personal Guaranty is required from each borrower or applicant

13 Equity Requirement Under Gap Financing

Owner(s)/Borrower(s) -	10% (If cash only)
Owner(s)/Borrowers(s) -	15% (If cash and other)
Developer(s) only -	25% (cash only)

14 Equity Requirement Under Primary Financing

Owner(s)/Borrower(s) - 20% (cash only)
Developer(s) only - 30% (cash only)

15 Job Creation and/or Retention

- a The purpose of the Program is to create and/or retain permanent full-time jobs of which 51% of the jobs created or retained are made available to or held by low and moderate income persons. It is ineligible to provide any assistance to any proposed Project which does not create or retain jobs as part of the Project.
- b Each applicant must commit to the number of permanent full-time jobs that will be created/retained through this financial assistance for a minimum of 24 months. Written contract agreements on the number of jobs created or retained, the documentation support for the 51% low and moderate income job availability and the necessary follow up to ensure business compliance with filling and maintaining each job by the Applicant/borrower is required to prevent a default under the Loan Documents. Applicants must demonstrate that they will create/retain at least one job for a low and moderate income person for each \$20,000 of Public Investment by the City and provided to the Project.
- c All required jobs created and/or retained must be documented and meet the applicable job creation/retention requirements of the Community Development Block Grant (CDBG) program identified in 24 CFR 570. Tracking report(s) in a format as prescribed by the City with all necessary and required supporting information concerning the creation and maintenance of the jobs must be filed for the prescribed period of time. Failure of the applicant to do so will constitute a loan default.

16 Tenant Relocation/Displacement Relocation or displacement must be minimized in all assisted projects.

17 Limitations on Assistance Financial assistance which exceeds the following limits requires City Council approval.

- a Assistance in excess of 40% of overall project costs, or
- b Assistance in excess of the maximum amount the City Manager is authorized to approve by article VII, section 15 of the City Charter.

III Application Submission Requirements

Each Applicant is required to submit a complete application in order to be considered for assistance. The application must be in a form as prescribed by the City. The information, documentation and content of

the complete application are designed to provide enough information to determine whether the request for assistance meets the financial and programmatic intent. The City is under no obligation to consider any application that is ~~not~~ complete. City staff reserves the right to determine the completeness of any application. Any incomplete application received may be given the opportunity to cure any requested or additional information required by City staff. If any Applicant fails to provide requested information within a thirty (30) calendar day cure period, City staff may deny the application upon written notification. A complete application for assistance must include, but may not be limited to the following:

A Minimum Application Content

- 1 Line item Budget for proposed project
- 2 Complete business plan composed of four distinct sections: description of business, marketing, finances and management
- 3 Capital improvement and supply list
- 4 Pro-forma income projection by month for first year, and annually for two additional years. Provide assumptions upon which assumptions were based
- 5 Attach copies of last three years and most recent profit & loss and balance sheet for your business
- 6 Attach copies of last three years SIGNED AND DATED personal income tax returns
- 7 Attach a two year projected income statement
- 8 Attach copies of your last three years SIGNED AND DATED Business Tax Returns (For sole proprietorships attach Schedule C, Form 1040, profit and loss from business)
- 9 For a partnership, please submit partnership agreement with all amendments
- 10 Attach assumed name certificate and/or articles of incorporation from Secretary of State Office
- 11 Attach resume(s) of principle owner(s) of the business, investors and key officer(s)
- 12 Complete the enclosed Personal Financial Statement(s)
- 13 Letters of financial support and/or approved financial agreement(s)
- 14 Proof of attempt(s) to secure private financial support from traditional lending institutions
- 15 For franchises, a copy of franchise contract and all supporting documents provided by the franchisor
- 16 Present valid U S Drivers license which will be copied for each applicant or borrower

- 17 Present valid U S Social Security card which will be copied for each applicant or borrower
- 18 Credit reports dated within 30 days of the application for each applicant from Experian and Transunion
- 19 City reserves the right to request additional information

SECTION IV PROJECT UNDERWRITING CRITERIA

All projects must demonstrate that they are economically viable Economic viability is a basis to deny a request for assistance The Program application will be reviewed on the basis of recognized business credit and real estate financing principles including capacity, collateral and the firmness of the project In addition, loans will be awarded on a competitive basis based on the number of applications and fund availability City staff will use the following competitive criteria in making its determination whether to recommend Applicant(s) to the Loan Committee

- A Capital**
- 1 Owner (primary) investment of 10 % if cash, or 15% if cash plus furniture, fixtures, and equipment or some eligible fund use as identified by Program guidelines
 - 2 Secondary investment should be obtained from either traditional commercial lending institutions or nontraditional/governmental entities Traditional commercial lending is highly desired and more favorable
 - 3 Leverage ratio of 1.5 to 1 is desired with 1 to 1 ratio being the minimum acceptable level of owner/secondary/private investment to City of Austin investment
 - 4 Capital income to be realized should be in the form of cash, cash equivalents, investments or securities as a result of the project Capital income is measured from highest to lowest liquidity
 - 5 Capital assets are expected to be gained such as land, buildings, equipment and other real property Business projects that increase in physical capital assets are highly desired with land, buildings and other real property being of greatest value
- B Credit**
- 1 Acceptable credit scores are between the ranges of 620 and 850 Scores between 700 to 850 are highly desirable with scores between 620 to 699 being acceptable If required, Applicant(s) with scores less than 620 must obtain a co applicant/borrower whose credit score when averaged with the applicant(s) will average above 620 In addition, co-applicants must agree to become guarantors to secure the loan
 - 2 Paid/Current accounts are favorable Based on the credit report, ninety (90) percent or more of total accounts reflected as paid or current is highly desirable Paid/Current accounts of 80 percent are the minimum acceptable level

- 3 Total debt to equity ratio measures risk associated with the use of leverage (debt) A debt to equity ratio of 5 or less is highly desirable, while 51 to 75 is acceptable A ratio of 76 or higher is unacceptable
- 4 Current ratio measures ability to meet current obligations A current asset to current liabilities ratio of 1.5 to 1 is highly desirable, while 1 to 1 is acceptable A ratio of .99 or less is unacceptable
- 5 Derogatory marks include lawsuits, judgments, bankruptcies and collection accounts Two (2) or fewer is highly desirable, while three (3) to (4) is acceptable Five (5) or more derogatory marks are unacceptable In addition, only one (1) derogatory mark can be either a court judgment or bankruptcy and it must be at least 5 years since the date of discharge Lastly, short statement of 300 words may be required to summarize the particulars of the judgment, or bankruptcy in question Collection accounts must be at least 2 years old from date opened on the credit report

C Collateral

- 1 Collateral in the form of cash or cash equivalents are highly desired with liquidity being the measuring tool Land and buildings are acceptable, while others such as inventory and accounts receivables are not
- 2 Borrower equity of 100 percent in all collateral is highly desirable, while 51 percent or more is acceptable Less than 50 percent is undesirable
- 3 Collateral that appreciates or is interest bearing is highly desirable, while collateral that retains its value and does not decrease or increase is acceptable Collateral that depreciates is not desirable Equipment may be used as collateral, but will be considered at 80 percent of its market value and must have a useful life of at least five (5) years In addition, the useful life of collateral may not exceed the term of the loan
- 4 Business assets are the preferred type of collateral, while combinations of business and personal assets are acceptable Business assets must secure the loan at a 4 to 1 ratio to personal assets Personal assets alone are not desirable as stand alone security for a loan, but may be considered on a case-by-case basis when cash or real property is pledged
- 5 Personal guarantees are highly desired by all borrowers or investors who have a 10 percent or more interest in the business Personal guarantees from all borrowers or investors who have a 20 percent or more interest in the business is acceptable Personal guarantees not provided by individuals with 20 percent or more ownership in the business are unacceptable

D Community Impact

- 1 Exceeding the required number of jobs to be secured by low and moderate income persons is highly desirable, while meeting the minimum standard is acceptable **Note** Not meeting the low/moderate job security requirement is not acceptable

- 2 Exceeding the required job retention requirement is highly desirable, while meeting the minimum standard is acceptable. Not meeting the job retention requirement is not acceptable.
- 3 Exceeding the required number of jobs to be secured by low and moderate income persons is highly desirable, while meeting the minimum standard is acceptable. Note: meeting the low/mode job security requirement is not acceptable.
- 4 Businesses that provide access to new goods and services are highly desirable, while businesses that provide access to existing goods and services are acceptable.
- 5 Private investment received from friends, family, employees, customers, or industry colleagues is highly desired, while investment from venture capitalist is acceptable. No private investment received from friends, family, employees, customers, or industry colleagues is acceptable, if there is investment from venture capitalist only is acceptable. No private investment is highly undesirable.
- 6 Businesses with 100 percent women and/or minority ownership are highly desirable, while businesses with at least 51 percent woman and/or minority ownership are desirable. Businesses with 50 percent or less woman or minority ownership are acceptable. Businesses lacking any women and/or minority ownership are not as favorable.
- 7 Projects located in the Redevelopment Area that are also in the NCMP and/or CP&R target area are highly desirable, while projects within the Redevelopment Area but that are not located with the NCMP and/or CP&R are acceptable. Project outside the Redevelopment Area are not acceptable.

E Economic Feasibility

- 1 Financing that is secured and documented with signed commitment letter(s) including terms are highly desirable, while financing that has been initiated before or simultaneously with an application for funding, but not secured and documented by commitment letters is acceptable. Applications for funding alone are not acceptable, unless recommended by City staff.
- 2 Management (or Eligible Borrowers) that possess six (6) years or more combined experience, education or training is highly desirable, while management that possess three (3) to five (5) years combined experience, education or training is acceptable. Management that possess two (2) years or less experience, education or training is unacceptable.
- 3 Products and services that are of a quality above industry standards are highly desirable, while products and services that meet industry standards are acceptable. Products and services that are below industry standard are unacceptable.
- 4 Marketing strategies that are economically and strategically sound and that support the establishment of a competitive advantage are highly desirable, while marketing strategies that are economically and strategically sound, but do not establish a competitive

advantage are acceptable Marketing strategies that are not economically or strategically sound are unacceptable

- 5 Market analysis that fully support financial and performance projections is highly desirable, while marketing analysis that partially support financial and/or performance projections is acceptable Marketing analysis that does not support financial and/or performance projects is unacceptable

V Loan Approval Process & Timeline

A NHCD is responsible for establishing a process to review, recommend and approve all complete requests for assistance All requests for assistance are subject to funding availability Only applications meeting all applicable requirements of the Program may be considered for approval and funding

The Loan Committee provides lending expertise to review and make recommendations regarding the approval for each request for assistance from Eligible Borrowers Three (3) members of the four (4) member Loan Committee constitute a quorum The Loan Committee approval or rejection is included in all recommendations to the City Council for approval of a loan Loan Committee action is based on a simple majority vote The committee may reject applications outright, request additional information, or suggest alternative ideas and financial structuring to the borrower The Loan Committee will consider the proposals using the award criteria outlined in Section VI, above Although the City will consider the advice and recommendations of the Loan Committee, the Loan Committee is operating in an advisory capacity only and the City is not bound by the recommendations of the Loan Committee The City may accept in part or whole, or reject the recommendations of the Loan Committee

The Loan Committee will make its final recommendations on each proposal to the City Manager (or her/his designee) If the loan amount exceeds the City Manager's authority, it will require City Council approval by resolution The City Manager (or her/his designee) may then authorize negotiation and execution of all necessary agreements to carry out the financial assistance The form of all documents, loan instruments, job creation, program income agreements used in this Program are developed by and approved by the City All performance and financial reporting documents used in this Program is developed by and approved by the agency of federal program and or the designated City department where applicable

B Application/Funding Timeline for Federally Assisted Projects

Day 1 to 14 –Review of Application (14 days)

- Review application for eligibility
- Review application/project for national objective
- Review application for completeness based on checklist and applicant/organization type
- If application is incomplete, notify applicant in writing of application deficiencies
- If application is deemed complete, conduct staff analysis
 - 1 Credit Review

- 2 Financial ratio and analysis (Current, quick, cash, asset turnover, inventory turn over, profit margin on sales, gross margin on sales, debt/equity, and debt to total assets)
- 3 Business Plan Review
 - a Business information
 - b Market analysis
 - c Marketing strategy
 - d Operations
 - e Management & Personnel
 - f Financial Status (Financial P&L (Income), Cash Flow Statements, Balance Sheet)
 - g Financial Projections- Proformas (Yr 1 Month-to-Month, Yr 2 & Yr 3 Year-to-Year)
 - h Supporting documents, letters of financial support, commitment letters, lease or purchase agreements, bids, budgets

4 Personal Financial Statement

- Score application using - Score Card
- If score is appropriate then recommend to Loan Committee, if not then notify applicant in writing of score card results
- Prepare Staff summary to NHCD management & NCMP Loan Committee

Day 15 to 30 – Loan/Grant Committee Review (16 Days)

- Schedule Loan Committee meeting
- Conduct Loan Committee meeting
- Members vote and make recommendations (approve, approve w/conditions, denied)
- Prepare Loan Committee Summary

Day 31 to 69 – Request Council Action (RCA) (39 Days)

- Create RCA for internal review 35 to 40 prior to council action date
- Incorporate any final changes as needed
- Prepare for council action date

Day 31 to 75 – Complete Environmental & Fund Release Process. (45 Days)

- Review environmental regulations
- Determine level of required environmental review based scope of use of funds and/or scope of project
- Conduct environmental assessment Solicit data from pertinent City of Austin, Travis County, State of Texas or federal offices/departments/agencies
- Create environmental review record
- Complete 18 day posting/comment period process, if necessary
- Complete 15 day posting /comment period process, if necessary
- Submit request for release of funds to Planning Division

- Await notification of grant/authority to use funds from U S Department of HUD

Day 40 to 53 – Contract Negotiation & Development. (14 Days)

- Work through any issues, concerns or matters identified by staff or the Loan Committee
- Finalize terms or structure of deal to as mutually agreeable as possible based on program guidelines
- Provide final documentation of insurance, equity investment, collateral and or financing
- Send Law Department term letter input form
- Send Law Department loan or grant input form
- Staff review of final loan documents
- Borrower review of final loan documents
- Participating lender(s) or equity contributor review of final loan documents
- Coordination of loan closing with title company, if required
- Review of HUD-1, if required
- Certified funds delivered at closing as required
- Closing instructions and final loan documents from all lenders delivered to closing company/site

Day 76 to 83 – Terms & Process Requirements (8 Days)

- Borrower registers with City of Austin Vendor Database
- Borrower provides City with copies of insurance certificates on ACORD Form satisfying Insurance Requirements (Exhibit B)
- Provide Risk Management with Insurance requirements and copies of insurance certificates on ACORD Form
- Initiate CARR Process (Internal NHCD Process)

Day 84 to 86 – Loan/Grant Execution. (3 days)

- Execute loan documents
- File required recordable documents with Travis County and/or Texas Secretary of State Office
- Distribution of executed/recorded documents to all parties

Day 85 to 89 - Contract Set-Up. (5 Days)

- Provide Risk management with Insurance requirements and copies of Insurance certificates on ACORD Form
- Provide executed loan documents with transmittal memo/attachments/exhibits to NHCD Finance

- Provide insurance requirement approval correspondence from Risk Management to NHCD Finance

Day 90 to 119 – Release Funds (30 Days)

- Funds are disbursed based on either Reimbursement or Direct Pay for Performance as determined by program staff and/or policy
- Borrower submits to NHCD program staff “Pay/Draw Request Form” with invoices, receipts, cancelled checks and other documentation as required
- Submit documentation as required by NHCD Finance

Please Note: City of Austin Finance Department reserves up to 30 days from the date of receipt of an acceptable and approved check request by any City Department/Vendor/Contractor

VI FINANCIAL ASSISTANCE

A General

This Program is designed to encourage maximum leverage of private equity and private financing and minimize the public subsidy cost while addressing program goals within CDBG eligibility requirement. No speculative purchases or construction projects will be considered under this program.

The total of City assistance plus all other debt with higher lien priority shall not exceed 115% of the appraised market value of the completed project.

B Funding Terms

Construction period-only loans, in general, will accrue interest on the amount disbursed from the date of a disbursement with interest capitalized and repayment due at the earlier of construction completion or date of take-out financing, not to exceed an 18 month period. Combination construction period and permanent loans, in general, shall accrue no interest during the construction period or for one year from initial disbursement, whichever is less. The Program requires full amortization of principal and interest in equal monthly payments.

C. Conditions of Assistance

- 1 Property is to be secured by mortgage in either first or second lien priority. Third lien position request will be considered on a case-by-case basis, and will require project collateral to exceed total project value or total financing by at least 20 percent, whichever is the greater of the two.
- 2 All equipment or property will be secured in either a first or second lien position and must have a useful life of at least 5 years.
- 3 Assistance generally will be non-recourse with recovery rights limited to project property and income. Collateralized or recourse loans may be required for some projects.

- 4 Contractors and all subcontractors providing work under the Program must be licensed and meet insurance and bonding requirements of the City and/or State or Federal entities as required by contract. The contractor and/or subcontractor must be knowledgeable of and responsible for quality workmanship and for proper business practices.
- 5 All work must be covered by normal required permits and approvals of affected agencies.
- 6 All work must be inspected by the City to insure conformance with code and must be verified for proper completion by city staff to insure compliance with specifications prior to final payment. The final inspection cannot be scheduled until field inspectors have reviewed and find acceptable all permit approvals.
- 7 All eligible improvement work performed pursuant to a commercial rehabilitation loan must include a 12 month warranty from the date of accepted completion by the Eligible Borrower and the City which ever is later. This warranty must cover the quality of materials used and workmanship. The warranty is the responsibility of the Eligible Borrower.
- 8 Some projects will require that funds, both public and private, be drawn down at a pro-rata share based on percentage of participation.
- 9 A minimum 10% cash equity investment of project costs is required for all projects, or, total borrower equity investment including project specific business needs such as equipment, furniture and fixtures, and other physical or financial capital as determined by Program staff must total 15% of total project cost.
- 10 Secondary investment is encouraged from partners, associates, philanthropists, friends and family. Secondary investment by non business partners is acceptable, but if greater than 10 % by any one individual or group a subordination agreement may be necessary as well as borrower/investor agreements concerning business assets, and payment of dividends or loans.
- 11 Debt Service Coverage must be greater than 1.1 in all years or months in cash flow proformas, which must demonstrate sufficient cash flow throughout life of project and equal to loan terms.
- 12 Firmness of the project must be determined satisfactorily. The borrower must demonstrate that there are no impediments to initiating the project except for Program award. If an award from a Federal financing participant in the project is predicated on prior approval by the City, conditional exception may be granted. Project estimates must be firm, precise, and detailed. The lenders, equity participants, and other participating investors must provide evidence of their authority, capacity, (except regulated lending institutions who do not have to demonstrate capacity) and intent to participate in the project.
- 13 The Project must demonstrate need for program financing (necessary or appropriate determination) to obtain assistance from the Program and all the financial participants in the project must clearly declare in writing and signed by an authorized official of the

financial participant that they are unable to provide additional funds in the project and demonstrate that without the City's participation in the project they will not be able to proceed because they will not be able to produce an economically viable project

- 14 The loan must be repaid by the Eligible Borrower(s) directly to the City or its agent
- 15 Acceleration of principal repayment for developer deals will be enforced in instances where developer projects which are very successful and either produce substantially greater cash flow than projected or significantly appreciate in value shall provide the City accelerated proportionate payment of principal on the loan. Developer projects whose cash flow and appreciation in value exceeds a certain percentage (percentage to be negotiated prior to closing) will apply a minimum of 20% of the cash flow in excess of the percentage to the principal balance of the loan.

When non-profit organization participation is identified it must be verified. The applicant must provide adequate documentation to determine that a non-profit organization has majority ownership of the project.

- 16 The minimum financing leverage ratio is 1.5. The Program is to serve as a catalyst to trigger private sector investment in commercial redevelopment areas. Projects with higher leverage ratios are looked upon favorably. The leverage ratio formula is calculated as follows:

$$\text{Leverage Ratio} = \frac{\$ \text{ Private Investment + Equity (60\% or more)}}{\text{Program (40\% or less)}}$$

Private Investment Amount may include

- (a) Conventional private sector mortgage,
- (b) Purchase money mortgage,
- (c) Individual Retirement Bonds (IRB's),
- (d) Leases equal to the life of the loan or in proportions thereof,
- (e) Land lord investment (build-out allowance and/or full or partial forgiveness of rental payments,
- (f) SBA 503, 504 and SBA 7 (a) Guaranteed Loan Programs or similarly guaranteed loan programs,
- (g) Second or third party investor equity, and
- (h) Equity investment to remain in the project throughout life of the program loan

Public Investment may include

- (a) Direct loans or grants made by federal or state agencies, and
- (b) Non profit and community lending and development organizations

Note: To be counted in the numerator the investment must be made in eligible fixed assets.

- 17 Create at least one (1) job for every \$20,000 of the loan amount with a 50% credit given for jobs retained. One hundred percent (100%) of permanent private sector jobs must be created within 24 months of the date loan is funded. Fifty (50) percent of the job

creation requirement must be met within 12 months of the date the loan is funded. In addition, each job identified under the job creation requirement must be maintained for 24 months.

Fifty-one percent (51%) of the Jobs must benefit low to moderate income persons. Under the low/moderate job creation/retention requirement, the jobs identified must be made available to and held by low and moderate income persons for a minimum of 24 months. Fifty (50) percent of the job creation requirement must be met within 12 months of the date the loan is funded. In addition, each job identified under the job creation requirement must be maintained for 24 months.

VII LOAN RENEGOTIATION

In the event of loan repayment difficulties not due to applicant neglect, malfeasance, or misfeasance and upon recommendation by the Loan Committee, the City Manager (his/her designee) is authorized to consider revising the loan repayment terms to defer or to partially defer payments and/or extend the original loan terms up to an additional ten years (not exceeding a total thirty year term). However, the City is under no obligation to consider renegotiation if it is determined that to do so would be a detriment to the City.

VIII DEFAULT

A default shall exist if any use of Program funds for any purpose other than those authorized in the Loan Documents or any breach of any covenant, agreement, provision, or warranty (i) the *Eligible Borrower made in the Program application, or (ii) the developer made in any agreement* entered into between the Eligible Borrower and any participating party relating to the project.

IX WAIVER OF PROVISIONS

The City Manager (or said authorized official) may waive compliance with any provision of the Program Guidelines if to do so does not violate any federal, state, or City law or regulation and is in the best interest of the City of Austin.

XI GRIEVANCES AND APPEALS

Persons aggrieved by any action or inaction of the City or the Loan Committee (Grievant), which occurs in the implementation of these policies and who wish to appeal said action or inaction must do so by submitting said appeal in writing to the NHCD Assistant Director within fifteen (15) working days of the action or inaction deemed aggrieving by the Grievant. The Program Manager of the NHCD Community Development Division, which is responsible for Program, is charged with administrative responsibility for reviewing said appeals or grievances. He/she shall submit to the NHCD Assistant Director a written summary of each grievance received by the NHCD Assistant Director, along with an explanation of administrative action taken or recommended within fifteen (15) working days of receipt of the written grievance from the Grievant to the NHCD Assistant Director. The NHCD Assistant Director will communicate his/her decision regarding the appeal to the Grievant in writing within fifteen (15) working days of his/her receipt of the written grievances from the grievant. If the grievant is not satisfied with the Assistant Director's decision, he/she may appeal to the NHCD Community Development Officer. An appeal to the NHCD Community Development Officer must be filed no later than

fifteen (15) working days from the date the grievant receives the NHCD Assistant Director's written decision. The NHCD Community Development Officer's final decision constitutes the highest administrative appeal.

**CITY OF AUSTIN
REDEVELOPMENT AREA LOAN PROGRAM**

**DEPARTMENT OF
NEIGHBORHOOD HOUSING AND COMMUNITY DEVELOPMENT**

LOAN SCORE CARD

Note Five (5) categories identifying twenty-seven (27) criteria each worth two (2) points each

I Capital

A Owner investment	2	1	0
B Secondary investment	2	1	0
C Leverage ratio	2	1	0
D Capital Income	2	1	0
E Capital Assets	2	1	0

I Capital Point Score

Note Capital Scoring Criteria

- A Owner investment Less than or equal to 9% <= 0, Greater than or equal to 10% >= 1, Greater than or equal to 15% >= 2
 B Secondary investment Commercial (traditional) = 2, governmental/nontraditional = 1, none = 0
 C Leverage ratio 60/40 (or 1 5) >= 2, 50/50 (or 1 0) >= 1, 49/51 (or less than 1 0) <= 0
 D Capital income Cash & cash equivalents = 2, Investments = 1, Other = 0
 E Capital assets Land and/or buildings = 2, Equipment = 1, Other = 0

II Credit

A Score	2	1	0
B Paid/Current	2	1	0
C Total debt to equity ratio	2	1	0
D Current ratio	2	1	0
E Derogatory Marks (DM)	2	1	0

II Credit Point Score

Note Credit Scoring Criteria

- A Score (500 < 619 = 0, 620 < 699 = 1, 700 < 850 = 2),
 B Paid/current accounts 90% or more of accounts PD = 2, 89-80% or more of accounts PD = 1, 79% or less of accounts PD = < 0
 C Total debt to equity ratio (Debt/net assets) – leverage ratio assessing risk created by the use of leverage
 Less than 5 = 2, 51 > 75 = 1, Greater than 76 = 0
 D Current ratio (Current assets/current liabilities) - liquidity ratio measuring ability to meet current obligations
 Greater than or equal to 1 5 = 2, from 1 51 to 1 0 = 1, Less than 1 0 = 0
 E Derogatory marks (DM) 5 or more DM = 0, 3 to 4 DM = 1, 2 or less DM = 2) Includes judgments, bankruptcy, and collection accounts

III Collateral

A Assets	2	1	0
B Equity	2	1	0
C Depreciation/Appreciation	2	1	0
D Business/Personal assets	2	1	0
E Personal Guarantor(s)	2	1	0

III Collateral Point Score

Note Collateral Scoring Criteria

- A Assets Cash & Cash equivalents = 2, Land & buildings = 1, Accts Receivable & inventory = 0
B Equity Borrower(s) Equity in collateral 100% > = 2, 51% > = 1, less than 51 % = 0
C Depreciation/appreciation Collateral appreciates/interest bearing = 2, remains constant = 1, depreciates = 0
D Business/personal assets Fully collateralized by business assets = 2, Combination of Business and personal at a ratio of 4 to 1 = 1, Other = 0
E Personal Guarantor(s) Secured by all who own 10% or more = 2, all who own 20% or more = 1, other = 0

Note Community Impact and Economic Feasibility identify (12) criteria each worth two (2) points each

IV. Community Impact

A Job creation	2	1	0
B Job retention	2	1	0
C Low/Mod jobs	2	1	0
D Access to Goods/Services	2	1	0
E Private investment	2	1	0
F Women/minority owned	2	1	0
G Redevelopment Area	2	1	0

IV Community Impact Point Score

Note Community Impact Scoring Criteria

- A Job creation Exceeds job creation requirement = 2, meets job creation requirement = 1, fails = 0
B Job retention Exceeds job retention requirement = 2, meets job retention requirement = 1, fails = 0
C Low/Mod jobs Exceeds low and moderate job creation requirement = 2, meets job creation requirement = 1, fails = 0
D Access to goods/services Provides access to new goods/service = 2, access to existing goods/services = 1,
E Private investment Friends, family, employees, customers, industry colleagues = 2, venture capitalist = 1,
F Woman/minority owned 100 percent woman & minority ownership = 2, 50 percent minority and/or woman = 1, less than 50 percent woman or minority ownership = 0
G Redevelopment Area Within Redevelopment Area overlapping NCMP and/or CP&R Zone target area = 2, Redevelopment Area only = 1, Outside Redevelopment Area = 0

V. Economic Feasibility

A Financing	2	1	0
B Management (Borrower)	2	1	0
C Product/Service	2	1	0
D Marketing strategy	2	1	0
E Market Analysis	2	1	0

Program Guidelines – Redevelopment Loan

V Economic Feasibility Point Score

Note: Economic Feasibility Scoring Criteria

A Financing Secured prior to applying = 2, submitted simultaneously = 1, incomplete = 0

B Management Possess 6 years or more combined experience, education/training = 2, Possess three (3) to five (5) years combined experience, education/training = 1, Possess 2 years or less combined education and experience = 0

C Products/service Products/services are above industry standards = 2, meet industry standards = 1, below industry standards = 0

D Marketing strategy Strategy economically and strategically sound that establish a competitive advantage = 2, marketing strategy that is economically and strategically sound, but does not establish a competitive advantage is acceptable, marketing strategy that is not economically or strategically sound is un acceptable

E Market analysis Analysis conducted and fully supports financial and performance projections = 2, analysis conducted and partially supports financial and/ or performance projections = 1, fails to support projections = 0

VI Overall Score

Score Ranges

54 - 48 -- Recommend Approval

47 - 43 -- Recommend Approval with Conditions

45 - 38 -- Recommend Modify & Resubmit or Denial

37 <= --- Recommend Denial



REQUIRED ATTACHMENTS CHECKLIST

Please provide the following information

- () 1 Budget for proposed project
- () 2 Complete business plan composed of four distinct sections description of business, marketing, finances and management
- () 3 Capital improvement and supply list
- () 4 Pro-forma income projection by month for first year, and annually for two additional years
Provide assumptions upon which assumptions were based
- () 5 Attach your last three years and most recent profit & loss and balance sheet for your business
- () 6 Attach last three years SIGNED AND DATED personal income tax returns
- () 7 Attach a two year projected income statement
- () 8 Attach your last three years SIGNED AND DATED Business Tax Returns (For sole proprietorships attach Schedule C, Form 1040, profit and loss from business)
- () 9 For a partnership, please submit partnership agreement
- () 10 Attach official filed d b a, and/or articles of incorporation from Secretary of State Office
- () 11 Attach resume(s) of principle owner(s) of the business, and key officer(s)
- () 12 Complete the enclosed Personal Financial Statement(s)
- () 13 Letters of financial support and/or approved financial agreement(s)
- () 14 Proof of attempt(s) to secure private financial support from traditional lending institutions
- () 15 For franchises, a copy of franchise contract and all supporting documents provided by the franchisor

- () 16 Valid U S Drivers license to be copied for each applicant or borrower
- () 17 Valid U S Social Security card to be copied for each applicant or borrower
- () 18 Credit reports dated within 30 days of the application for each applicant from Experian and Transunion

Return by mail or deliver to
EAST 11TH AND 12TH STREET REDEVELOPMENT LOAN PROGRAM
CITY OF AUSTIN
NEIGHBORHOOD HOUSING AND COMMUNITY DEVELOPMENT OFFICE
1000 East 11th Street Suite 400
PO BOX 1088
Austin, TX 78767-1088

For Additional Information Contact
Neighborhood Housing and Community Development Office
(512) 974-3100



REDEVELOPMENT AREA LOAN PROGRAM

APPLICATION

LOAN AMOUNT REQUESTED \$ _____

BUSINESS INFORMATION

Business Name _____ Tax ID No _____
Street Address _____
City _____ State _____ Zip Code _____
Bus Phone _____ Home Phone _____
Contact Person _____ Title _____

Type of Business Activity _____

- Sole Proprietorship
 Partnership
 Corporation Type _____
In business since _____

Business Owners

Name _____ Title _____
Address _____ Social Security No _____
Date of birth _____ % Ownership _____

Name _____ Title _____
Address _____ Social Security No _____
Date of birth _____ % Ownership _____

PROPERTY INFORMATION

a) Current Facility Owned () Leased ()
 Is business relocating? _____ Address _____
 Leased () Owned () Size of Building _____ sq ft
 No of floors _____ Owner Occupied _____ %

IV EMPLOYMENT INFORMATION

A Total number of employees at time of application, _____ of these
 Number of full-time employees _____,
 Number of part-time employees _____
 B Total number of jobs to be created, _____ of these
 Number of jobs available to low and moderate income individuals _____
 Number of full-time jobs _____
 Number of part-time jobs _____

V USE OF FUNDS (attach budget)

Description	Cost
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

VI COLLATERAL

Description	Value
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

VII SOURCE OF FUNDS (proposed)

			Rate	Term
City Amount	\$ _____	_____ %	_____	_____ months
Bank	\$ _____	_____ %	_____	_____ months
Other Source	\$ _____	_____ %	_____	_____ months
Equity Funds	\$ _____	_____ %	_____	_____ months
Total Financing	\$ _____	100 %		

VII GUARANTORS

Name _____ Address _____
Name _____ Address _____

() *Attach financial statements and cash flow information*

APPLICANT

I hereby certify that all information contained in this document and any attachments is true and correct to the best of my knowledge

If applicant is a sole proprietor or general partner, sign here By _____
Title _____

If corporation sign below Corporate Name _____

By _____ Date _____ Attested by _____
Signature of Corporate Secretary



FAIR LENDING NOTICE

RIGHT OF PRIVACY ACT This is to inform you, as required by the Right to Financial Privacy Act of 1976, that the Department of Housing and Urban Development and the Veterans Administration have a right to access financial records held by a financial institution in connection with the consideration of assistance to you. Financial records will be made available to the Department of Housing and Urban Development and the Veterans Administration without further notice or authorization, but will not be disclosed or released to another government agency or department or private entity without your consent except as required or permitted by law.

FAIR CREDIT REPORTING ACT Neighborhood Housing and Community Development Office, as part of the processing of your loan application, will request both a consumer and business credit report bearing information on your credit worthiness, standing, capacity, character, general reputation, personal characteristics, or mode of living. This notice is given pursuant to the Fair Credit Reporting Act of 1977, Section 606(a)(1). Pursuant to Section 606(b), you are entitled to such information within 5 days of written demand made within a reasonable period of time to Neighborhood Housing and Community Development Office, 1000 E 11th Street, Ste 400, P O Box 1088, Austin, Texas 78767-1088.

EQUAL CREDIT OPPORTUNITY ACT Pursuant to Section 209.9, Paragraphs (a)(2) and (b)(1) of Regulation B regarding Section 701(a) the following notice is given. The Equal Credit Opportunity Act prohibits creditors from discrimination against credit applicants on the basis of race, color, religion, national origin, sex, marital status, and age (provided the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income is derived from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency, which administers compliance with this law, is the Federal Trade Commission, Equal Credit Opportunity, Washington, D C.

I/We Acknowledge receipt of a copy of this notice

Signature of Applicant

Date

Signature of Applicant

Date



CREDIT INFORMATION DISCLOSURE AUTHORIZATION

I/we hereby authorize you to release to the City of Austin, for verification purposes, information concerning

Employment history dates, titles, income, hours worked, etc

Banking and savings account records

Mortgage loan information including open date, high credit, payment amount, due date, loan balance, interest rate, and payment record

Exchange any information with the financial institution that is processing the application pertaining to this loan

The above loan reports are for confidential use in compiling information regarding a commercial loan requested by the applicant(s) signing this form

A photographic or carbon copy of this authorization (being a photographic or carbon copy of signature(s) of the undersigned) may be deemed to be the equivalent of the original and may be used as a duplicate original

Your prompt attention to this matter will help expedite my loan application

Thank you,

Signature of Applicant

Social Security Number

Date

Signature of Applicant

Social Security Number

Date

STATEMENT OF WORK

For the period from the 15 November 2007 until 30 September 2010
(East 11th and 12th Street Redevelopment Project)

I STATEMENT OF PURPOSE and PROJECT OVERVIEW

The Agreement is part of the financing package for the \$9,035,000 Section 108 Loan Guarantee Assistance Program from the U.S. Department of Housing and Urban Development (HUD). The Development Agreement identifies the City of Austin's, Urban Renewal Agency of the City of Austin, and the Austin Revitalization Authority's roles and responsibilities related to the implementation of the East 11th and 12th Street Urban Renewal Plan (URP).

The Agreement provides for (1) acquisition of land within the redevelopment area, (2) transfer of properties to the Corporation and/or private developers, and (3) lending of funds for redevelopment projects.

Unless amended, suspended or terminated in accordance with other applicable conditions and provisions of this Agreement, this Agreement shall be effective on the Date of the Agreement and shall end on 30 September 2010, unless extended. There are two one-year options periods that the parties may exercise under the Agreement. All extensions are contingent upon approval by all parties prior to the termination date.

II PROJECT IMPLEMENTATION GOALS AND TIMELINES – East 11th Street

- a** In the case of the Corporation's Phase Two Project Acquisition and Disposition Plan approved by the Agency on 16 December 2002 by URA Resolution No. 2002-1216-03 [generally referred to as the Block 17 Tract], the property that is referred to in the resolution must be transferred by a Redevelopment Agreement to the Corporation on or before 31 May 2008.
- b** In the case of the Corporation's Phase One Project Acquisition and Disposition Plan approved by the Agency on 15 May 2000 by URA Resolution No. 2000-0515-04 [generally referred to as the Block 18 Tract], the Corporation must submit a complete Phase Two Project Acquisition and Disposition Plan to the City Representative and the Agency on or before 30 November 2007.